

<p style="text-align: right;">Page 94</p> <p>1 A. I did not.      2 Q. Did anyone else in your office that you're      3 aware of?      4 A. I'm unaware of that.      5 MR. SCHMITZ: All right. I want to -- I'm      6 going to move to another exhibit, Exhibit J.      7 (Whereupon Exhibit J was marked      8 for identification.)      9 Q. (By Mr. Schmitz) Do you see this document?      10 A. Yes.      11 Q. Have you seen the cover sheet, the letter      12 before?      13 A. I'm unaware if I have or have not.      14 Q. All right. Are you aware that in 2018      15 another version of these rules was issued?      16 A. I may have.      17 Q. All right. As far as this document, did      18 you participate in any of the changes --      19 A. No.      20 Q. -- that were made to it? No.      21 Were you consulted in any way on      22 those changes?      23 A. I'm not sure.      24 Q. If you could go back to the first page,      25 second paragraph. As you can see, this memorandum</p>	<p style="text-align: right;">Page 96</p> <p>1 A. They're posted by the Department Of      2 Personnel when there's a job opening.      3 Q. Okay. To what extent do you participate      4 in the process?      5 A. Sometimes none. And at other times, I      6 would give approval to post it. The majority of      7 times I'm not asked to give approval to post jobs.      8 Q. Okay. Do you interview the candidates?      9 A. No, not unless they are directly reporting      10 to me or if a manager would like for me to interview      11 the candidate or I ask the manager to allow me to      12 interview the candidate.      13 Q. Under what circumstances would you ask the      14 manager to allow you to interview the candidate?      15 A. If I felt the manager needed my      16 assistance.      17 Q. In what way, like they were a new manager      18 or --      19 A. If they were a new manager, or if they      20 gave me a reason to believe that they would like my      21 assistance in most areas of their job.      22 Q. Do you know if there's a recruitment      23 process for candidates either through your office or      24 the Department of Personnel?      25 A. From time to time, there is as I</p>
<p style="text-align: right;">Page 95</p> <p>1 was written by Judy Armstrong. In the second      2 paragraph, it talks about there's a need for an      3 update on the guidelines. Is that coming from you      4 or was that a determination made by Ms. Armstrong?      5 A. I did not write this.      6 Q. Is she speaking on your behalf, or did you      7 direct her to do this or did she do this on her own?      8 A. I did not direct her to write this.      9 Q. All right. If you read the second full      10 sentence where it says: Some of the most recent      11 concerns echoed by managers involve employee's      12 lateness to work, loud conversations, excessive      13 socializing in and around work areas.      14 Are these issues that you were aware      15 of were taking place around this time frame,      16 November 8, 2018?      17 A. I was told by employees prior to 2018 and      18 from time to time that there would be issues      19 regarding work ethic within the office.      20 Q. All right. I'm going to jump forward a      21 little bit. So I'm not going to reference that      22 exhibit anymore.      23 As far as the positions in your      24 office, can you describe just briefly how those      25 positions are posted when there's a job opening?</p>	<p style="text-align: right;">Page 97</p> <p>1 understand it an opportunity for a recruitment      2 process through the Office of Personnel.      3 Q. Is that something that you could request      4 to be done?      5 A. From time to time, my deputy comptroller      6 has done that.      7 Q. Is that something that you've asked them      8 to do or do they do that on their own?      9 A. Sometimes. The majority of the time, it      10 has been the request of the deputy comptroller with      11 making sure that I have knowledge of the request --      12 Q. Okay.      13 A. -- to the personnel office.      14 Q. Do you know what those recruitment efforts      15 would entail?      16 A. It would entail using organizations that      17 were widely known to help in the recruitment of      18 certain professional positions.      19 Q. What do you know about the civil service      20 position hiring system? Do you understand how      21 candidates are selected for interview?      22 A. No.      23 Q. Okay. Do you know anything about      24 positions -- some positions having a score base      25 system?</p>

<p style="text-align: right;">Page 98</p> <p>1 A. Yes.</p> <p>2 Q. Okay. How does that work?</p> <p>3 A. I know a little about it. I don't know 4 the system in its entirety. What I know about it is 5 generally speaking that a City employee who already 6 has a job with the City would score higher than any 7 other applicant based on the fact that they were a 8 City employee.</p> <p>9 Q. Do you know what other factors could 10 affect the score?</p> <p>11 A. Experience in the job would affect the 12 score. If there was no experience, even though if 13 you're a City employee, you still get points for 14 being a City employee with or without experience in 15 the job. So in the experience that I have seen over 16 the years that I've worked as many years, the 17 majority of city employees end up at the top of the 18 list when they apply for a job.</p> <p>19 Q. So you mentioned that you have 20 participated in interviews. In terms of those who 21 interview and then the selection that's made, who 22 makes that decision? Does that vary?</p> <p>23 A. It varies.</p> <p>24 Q. Okay. Who would make that decision for 25 front line nonmanagement or supervisory employees?</p>	<p style="text-align: right;">Page 100</p> <p>1 cases of hiring.</p> <p>2 Q. What decisions would you give the final 3 approval?</p> <p>4 A. It depends on the position. Those direct 5 reports to me, I would of course have the final 6 decision. And -- and I think that's about all that 7 I would have final decision in terms of hiring. And 8 that has been my practice. I think that other 9 offices have other practices or can have other 10 practices. But that has been my practice in my 11 office.</p> <p>12 Q. Okay. What positions direct report to you 13 within your office?</p> <p>14 A. It varies. But currently, the direct 15 reports are my administrative assistant, my deputy 16 comptroller, deputy comptroller for Finance &amp; 17 Development, the staff support officer, the public 18 information officer, and I believe currently the 19 contract compliance officer, but I'm not sure. At 20 one point, there was a direct report to me. But I 21 believe in the last several months, that may have 22 changed.</p> <p>23 Q. So who's the current deputy comptroller 24 right now?</p> <p>25 A. Beverly Fitzsimmons.</p>
<p style="text-align: right;">Page 99</p> <p>1 A. It varies.</p> <p>2 Q. Would it be the manager that's going to be 3 supervising them or is there somebody that's 4 generally designated to do that in the office?</p> <p>5 A. It varies.</p> <p>6 Q. So how does it vary?</p> <p>7 A. Sometimes it varies by function of the 8 particular job function. And sometime it would be 9 the supervisor of that particular individual 10 position that would make that determination. But if 11 that particular individual was not considered a high 12 enough level of management, they would not make that 13 final decision. It would be that supervisor of the 14 person who the -- individual who's going to be hired 15 would report to. It would not be that individual 16 who they would report to.</p> <p>17 Specifically or specific examples 18 would have to do with -- I guess I'm restating it. 19 It really has to do with the function. And 20 sometimes it also has to do with whether or not the 21 individual was new or not. And those factor into 22 who would make the final decision.</p> <p>23 Q. Do you have to give final approval to it 24 or are they allowed to do that on their own?</p> <p>25 A. I don't have to give final decision in all</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Okay. How old is Bev?</p> <p>2 A. How old is she?</p> <p>3 Q. Uh-huh.</p> <p>4 A. I don't know her age. Approximately over 5 50, possibly over 60. I do not know for sure.</p> <p>6 Q. Okay. What is her race?</p> <p>7 A. White.</p> <p>8 Q. Okay. And who is the deputy comptroller 9 for Finance &amp; Development?</p> <p>10 A. LaTaunia Kenner.</p> <p>11 Q. All right. How old is she?</p> <p>12 A. Approximately over 50.</p> <p>13 Q. What race is she?</p> <p>14 A. Black.</p> <p>15 Q. And you mentioned a staff support officer. 16 Is there somebody that's currently in that position 17 or is there more than one?</p> <p>18 A. There's two.</p> <p>19 Q. Okay. And who are they?</p> <p>20 A. Jason Fletcher and Judy Armstrong.</p> <p>21 Q. Do they both have the same title of staff 22 support officer?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Jason Fletcher, how old is he?</p> <p>25 A. Approximately over 30 or approximately</p>

<p style="text-align: right;">Page 102</p> <p>1 over 40.</p> <p>2 Q. Okay. And his race?</p> <p>3 A. White.</p> <p>4 Q. And how about Judy Armstrong, her age and</p> <p>5 race?</p> <p>6 A. Approximately over 50, black.</p> <p>7 Q. All right. You mentioned a public</p> <p>8 information officer. Is there somebody in that</p> <p>9 position?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Who is that?</p> <p>12 A. Tyson Pruitt.</p> <p>13 Q. Okay. Can you tell me his age, please,</p> <p>14 and his race?</p> <p>15 A. Approximately over 30 or 40, white.</p> <p>16 Q. All right. And the contract compliance</p> <p>17 officer, who is that?</p> <p>18 A. Michelle Graham.</p> <p>19 Q. Okay. How old is she?</p> <p>20 A. Approximately over 50.</p> <p>21 Q. And her race?</p> <p>22 A. Black.</p> <p>23 Q. Did you approve the hiring of all of these</p> <p>24 people or some of them?</p> <p>25 A. I believe all except Michelle Graham. Is</p>	<p style="text-align: right;">Page 104</p> <p>1 So I'm not sure. I may have been involved, and I</p> <p>2 may not have been involved. But what I do know</p> <p>3 about that position is that she was No. 1 on the</p> <p>4 list. And whether I selected her or if Beverly</p> <p>5 selected her, I don't know. But she was No. 1.</p> <p>6 Q. Who is that?</p> <p>7 A. Her name is Stephanie Green.</p> <p>8 Q. Stephanie Green, okay.</p> <p>9 A. But she does not report directly to me.</p> <p>10 Q. All right. Ms. Green, how old is she?</p> <p>11 A. 40-something, 50-something maybe.</p> <p>12 Q. What is her race?</p> <p>13 A. Black.</p> <p>14 Q. All right. Is that it then? Is there</p> <p>15 anyone else that you would have -- during, you know,</p> <p>16 your time as --</p> <p>17 A. The whole time?</p> <p>18 Q. Well, no. Currently now, but as the</p> <p>19 comptroller that you've --</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. All right. I want to talk a little bit</p> <p>22 about Jim. Okay? You obviously know</p> <p>23 Jim Garavaglia?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. He started in your office as an</p>
<p style="text-align: right;">Page 103</p> <p>1 that four people?</p> <p>2 Q. Okay.</p> <p>3 A. I believe.</p> <p>4 Q. Who picked Michelle Graham?</p> <p>5 A. She was there when I came.</p> <p>6 Q. Okay. You appointed Bev?</p> <p>7 A. Actually I did to her current position.</p> <p>8 Q. Okay.</p> <p>9 A. She was there when I came, too. She was</p> <p>10 promoted.</p> <p>11 Q. How many administrative assistants do you</p> <p>12 have?</p> <p>13 A. One.</p> <p>14 Q. And who is that?</p> <p>15 A. Chana Morton, like Morton Salt.</p> <p>16 Q. How old is Ms. Morton?</p> <p>17 A. 50-something. 50. Over 50.</p> <p>18 Q. Okay. What is her race?</p> <p>19 A. Black.</p> <p>20 Q. Okay. Is there anyone else that you have</p> <p>21 directly hired or approved the hiring of in your</p> <p>22 office currently other than the people you just</p> <p>23 named?</p> <p>24 A. Yes. Secretary of E&amp;A, I believe --</p> <p>25 actually no. I don't remember if I selected her.</p>	<p style="text-align: right;">Page 105</p> <p>1 asset manager; is that correct?</p> <p>2 A. No.</p> <p>3 Q. How did he start in your office?</p> <p>4 A. I don't know. He was there when I came to</p> <p>5 the comptroller's office. When I became the</p> <p>6 comptroller, Jim was already employed in the Office</p> <p>7 of the Comptroller prior to my becoming the</p> <p>8 comptroller of the City in 1995.</p> <p>9 Q. So you said no as far as where -- I didn't</p> <p>10 say he started with you. I just meant the office</p> <p>11 you were in. But what position, if you know, did he</p> <p>12 start in?</p> <p>13 A. I don't know.</p> <p>14 Q. All right. Do you know what position he</p> <p>15 was when you became comptroller?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. Do you know what position he was in</p> <p>18 before he was promoted to deputy comptroller?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What was that?</p> <p>21 A. Asset Manager II.</p> <p>22 Q. Okay. Did you interact with him when he</p> <p>23 was in that position?</p> <p>24 A. Which position?</p> <p>25 Q. Asset Manager II?</p>

<p style="text-align: right;">Page 106</p> <p>1 A. Yes.</p> <p>2 Q. Okay. About how often would you say you 3 interacted with him?</p> <p>4 A. I would say frequently. But that's 5 relative.</p> <p>6 Q. How often, like multiple times a day?</p> <p>7 A. At least a few times a month.</p> <p>8 Q. All right. Were you ever involved in his 9 supervision when he was at Asset Manager II?</p> <p>10 A. No.</p> <p>11 Q. What type -- what was the nature of your 12 interactions with him in general?</p> <p>13 A. Generally, my interaction had to do with 14 projects that the Office of the Comptroller was 15 involved in regarding City assets, City property, 16 City operations that fell under the jurisdiction of 17 the Office of the Comptroller. And from time to 18 time issues regarding the office of -- in the area 19 of accounting operations, financial operations that 20 would spill over into an asset manager for whatever 21 reason.</p> <p>22 Q. Based on your interactions with him, did 23 you ever consider him for any promotional 24 considerations?</p> <p>25 A. Based on my interaction with Jim, I found</p>	<p style="text-align: right;">Page 108</p> <p>1 just do not recall at this time.</p> <p>2 Q. Okay. Do you know -- this again relates 3 to him being an asset manager or Asset Manager II -- 4 if you ever were involved in sending him to any 5 additional training or outside education? And I 6 mean by that, you directly.</p> <p>7 A. Directly in terms of training for Jim in 8 particular, I don't recall. However, for the office 9 as a whole, I directly sent employees for training 10 when possible and when we had the finances to do so.</p> <p>11 Q. Do you do that at a macro level like the 12 whole office, I want you guys to go to this 13 training, or do you do it sometimes specific to the 14 employee if you feel there's a need?</p> <p>15 A. I've done both.</p> <p>16 Q. So you have referred specific individuals 17 to specific trainings?</p> <p>18 A. Yes.</p> <p>19 Q. As far as the deputy comptroller of 20 finance, I think you've mentioned Ivy Pinkston was 21 in that role.</p> <p>22 A. Yes.</p> <p>23 Q. Did you appoint her to that role?</p> <p>24 A. There's no easy answer for that. So I'll 25 describe. Ivy created the position in order to</p>
<p style="text-align: right;">Page 107</p> <p>1 him to be a person that could be promotable while he 2 was in the job of asset manager.</p> <p>3 Q. Okay. Did you have any particular 4 positions in mind that he might be promotable to?</p> <p>5 A. I did not.</p> <p>6 Q. Okay. Did you ever evaluate his 7 performance directly when he was an asset manager?</p> <p>8 A. Not that I'm aware of.</p> <p>9 Q. All right. Do you recall reviewing or 10 signing off on any of his evaluations of performance 11 that were written by someone else?</p> <p>12 A. It's possible, but I don't remember.</p> <p>13 Q. Do you have any recollection of doing -- 14 contributing in any way to his evaluations?</p> <p>15 A. The evaluations offer a second rater. I 16 could have been asked to be a second rater. But at 17 this time, I don't remember. I just do not recall 18 if, in fact, that I did ever sign off. I have 19 second rated employees during my tenure as the 20 comptroller. And I'm just not sure if Jim was one 21 of them.</p> <p>22 Q. Have you ever had any ratings where you 23 made suggestions or contributions but didn't act as 24 a second rater?</p> <p>25 A. It's possible, but I can't remember. I</p>	<p style="text-align: right;">Page 109</p> <p>1 express the level of job duties that she had 2 undertaken in the office. And as that job was 3 created, her -- she sought, that is, my approval as 4 to who would be reporting to her. And it included 5 the asset manager.</p> <p>6 Q. Okay.</p> <p>7 A. Along with other employees that filled out 8 the area.</p> <p>9 Q. All right. And I know she passed or at 10 least that's my understanding. Did that happen 11 while she was in the position?</p> <p>12 A. Yes.</p> <p>13 Q. So that's how the position became 14 available again?</p> <p>15 A. She created the position.</p> <p>16 Q. I mean after she originally took the 17 position, she remained in it until she passed; is 18 that correct?</p> <p>19 A. Correct.</p> <p>20 Q. At which point there was a vacancy that 21 you sought to fill?</p> <p>22 A. I took my time to seek to fill it. And 23 eventually I did seek to -- I asked that it be 24 posted to fill.</p> <p>25 Q. How long did you take before you asked for</p>

<p style="text-align: right;">Page 110</p> <p>1 it to be posted?      2 A. A few months.      3 Q. Did you consider not filling the position      4 at all?      5 A. Yes.      6 Q. Okay. What was the -- what would be the      7 reasons why you were considering that?      8 A. The candidate for the position was, I      9 felt, that was in the office was not there at the      10 time.      11 Q. Okay. On what -- do you mean like      12 qualifications?      13 A. Yes. Qualifications.      14 Q. When you were using this time to make the      15 determination, did you consult with anybody else?      16 A. Consult how?      17 Q. Ask for their advice, ask for their      18 opinion, seek --      19 A. What do you mean? Please be more clear.      20 You mean --      21 Q. I'm being general for a reason. Did you      22 talk to anyone else to seek their advice? For      23 example, did you talk to any other elected officials      24 about --      25 A. On whether or not to fill the position or</p>	<p style="text-align: right;">Page 112</p> <p>1 possible candidates from anyone that's a St. Louis      2 City elected official?      3 A. No.      4 Q. Did you talk to anybody in the community      5 that's like a community leader and seek advice from      6 them?      7 A. Absolutely not, no.      8 Q. How about other elected officials state      9 level or --      10 A. No.      11 Q. Nobody?      12 A. No. No.      13 Q. All right. How about other department      14 heads, reporting authorities within the City of      15 St. Louis?      16 A. No.      17 Q. Anyone else that worked in a financial      18 capacity for the City of St. Louis but not within      19 your office, such as like the airport or other --      20 A. Let me see. Did I do that? I don't      21 believe so. I don't recall. Unless I was trying to      22 hire from a different department. But I don't      23 believe I did. Unless I was trying to hire      24 specific, but I'm pretty sure I did not. But I      25 don't recall.</p>
<p style="text-align: right;">Page 111</p> <p>1 were there other candidates? Advice for --      2 Q. To fill the position, is my question.      3 A. I did not seek advice whether or not to      4 fill the position.      5 Q. Okay. How about did you seek their advice      6 on who you would be looking at to fill the position?      7 A. I did not. But what I did do was talk to      8 outside professionals in the finance industry,      9 because I was called by them to ask me, knowing that      10 the position was open, whether or not I would      11 consider people who were in their industry. I was      12 given names of people throughout the United States      13 that could fill the job.      14 Q. Those people --      15 A. Which is common in the industry of      16 finance.      17 Q. And these people reached out to you or you      18 sought --      19 A. They reached out to me from investment      20 bankers, bond attorneys throughout the United      21 States, both white and black, male and female from      22 the east coast to the west coast.      23 Q. Did you -- I'm not sure if you answered      24 this question specific to what I asked. I know you      25 mentioned that. Did you ever seek advice on</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. All right. Do you recall participating in      2 the interview process with the candidates for that      3 position?      4 A. Not at the early stage, but at the later      5 stage.      6 Q. Okay. In reference to Jim, do you know      7 who interviewed him for the position?      8 A. No. I do not recall.      9 Q. Okay. If I asked you, if Judy Armstrong      10 did it, would that refresh your recollection at all?      11 A. No.      12 Q. No.      13 A. Because the Office of Personnel recruits      14 the people who they would like to interview,      15 candidates and/or the office that is requesting the      16 actual hire would determine who goes.      17 Q. Did they consult with you before --      18 A. No. I mean, that's not common. Totally      19 not common.      20 Q. Well, I understand it's not common. What      21 about for this particular position, did they seek      22 your --      23 A. No.      24 Q. All right. So to what extent did you      25 participate in the ultimate selection of Jim for</p>

<p style="text-align: right;">Page 114</p> <p>1 that position?</p> <p>2 A. Could you be more clear?</p> <p>3 Q. Well, I want you to say whatever is</p> <p>4 responsive to the question. So you know he was</p> <p>5 ultimately picked as the replacement deputy</p> <p>6 comptroller of Finance &amp; Development, correct?</p> <p>7 A. Correct.</p> <p>8 Q. So what was your involvement, if any, in</p> <p>9 making that selection?</p> <p>10 A. I reviewed the list of six people. And I</p> <p>11 remember interviewing the people, each of the</p> <p>12 people. And there was one individual who was in the</p> <p>13 finance industry at the time that I was interested</p> <p>14 in who I had actually spoken with prior to --</p> <p>15 actually spoken to and was among the people who were</p> <p>16 actively, I guess, looking at the position from the</p> <p>17 financing. In other words, an investment banker was</p> <p>18 on that list.</p> <p>19 Q. Okay.</p> <p>20 A. Investment banker was on that list. And</p> <p>21 that investment banker was very interested in the</p> <p>22 job.</p> <p>23 Q. Do you recall who that individual was?</p> <p>24 A. Ron Browning Smith.</p> <p>25 Q. You said Ron Browning Smith?</p>	<p style="text-align: right;">Page 116</p> <p>1 asset manager. And I needed to know if he was</p> <p>2 accepting of that type of arrangement prior to</p> <p>3 accepting the position.</p> <p>4 Q. Okay. So the duties of the asset manager</p> <p>5 were not one that Ivy Pinkston --</p> <p>6 A. That is correct.</p> <p>7 Q. All right.</p> <p>8 A. My reason for that was because Ivy</p> <p>9 Pinkston did not ever have Jim involved in the</p> <p>10 business of Finance &amp; Development while she was</p> <p>11 deputy comptroller. I was very observant of that.</p> <p>12 I understood that Jim did not have the skills</p> <p>13 required to be in the position, even though he had</p> <p>14 worked under her as asset manager.</p> <p>15 He had never interacted with bankers,</p> <p>16 investment bankers, and the attorneys that were bond</p> <p>17 attorneys, and those professionals that worked in</p> <p>18 the area while Ivy Pinkston was the deputy</p> <p>19 comptroller for Finance &amp; Development. Jim was not</p> <p>20 assigned in that area at all.</p> <p>21 I was observant of that, because she</p> <p>22 did come down with an illness. I was observant of</p> <p>23 who she would put in charge of certain areas that</p> <p>24 she was -- had charge over. Candace Gorden, Ryan</p> <p>25 Coleman, Eunetter Steele, became those individuals</p>
<p style="text-align: right;">Page 115</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what happened with that? Did</p> <p>3 he -- you did not hire him obviously. So --</p> <p>4 A. He was offered the job.</p> <p>5 Q. Okay. Did he decline?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know approximately how old he is?</p> <p>8 A. Over 70. At the time, he was 70.</p> <p>9 Q. Can you tell me, do you recall what race</p> <p>10 he is?</p> <p>11 A. Black.</p> <p>12 Q. All right. So after he declined the job,</p> <p>13 what did you do next?</p> <p>14 A. I reviewed other candidates and reviewed</p> <p>15 my options. And eventually made a determination</p> <p>16 that I believe was in the best interest of the -- of</p> <p>17 the Office of the Comptroller to talk with Jim about</p> <p>18 considering accepting the job with making some</p> <p>19 changes.</p> <p>20 Q. What changes are those?</p> <p>21 A. The job that in its current form and as it</p> <p>22 was advertised would be changed to have less duties</p> <p>23 than would be there for the finance functions. And</p> <p>24 the reason for that was since he was an asset</p> <p>25 manager, that he would also maintain his duties as</p>	<p style="text-align: right;">Page 117</p> <p>1 that I as the comptroller rely on for all of the</p> <p>2 business of Finance &amp; Development while Ivy Pinkston</p> <p>3 was the deputy comptroller --</p> <p>4 Q. Okay.</p> <p>5 A. -- of Finance &amp; Development. Jim was</p> <p>6 fully in his role and very active as the asset</p> <p>7 manager and all the duties that was under him. But</p> <p>8 none of them crossed over into the Finance &amp;</p> <p>9 Development area.</p> <p>10 Q. So when he became the deputy comptroller,</p> <p>11 did those people continue to perform those duties?</p> <p>12 A. Candace Gorden retired. She was the top</p> <p>13 person under -- the top assistant under Ivy</p> <p>14 Pinkston. And she retired.</p> <p>15 Q. So who performed those duties after that?</p> <p>16 A. Eunetter Steele was --</p> <p>17 Q. Before you jump to that, I want to make</p> <p>18 sure we don't get too confused. Candace --</p> <p>19 A. Retired.</p> <p>20 Q. -- she retired, who took on those duties?</p> <p>21 A. I did.</p> <p>22 Q. So that was not something that fell under</p> <p>23 Jim?</p> <p>24 A. It did not.</p> <p>25 Q. All right. And then you were mentioning</p>

<p style="text-align: right;">Page 118</p> <p>1 somebody else?</p> <p>2 A. Ryan Coleman.</p> <p>3 Q. I think you said Eunetter?</p> <p>4 A. Eunetter Steele.</p> <p>5 Q. Did she remain in her position --</p> <p>6 A. Yes.</p> <p>7 Q. -- after Jim got promoted?</p> <p>8       Okay. Who did she report to?</p> <p>9 A. I do not recall, because I don't know if</p> <p>10 Jim would -- accepted her as an employee or if she</p> <p>11 reported to someone else. I do not recall that.</p> <p>12 She was the direct assistant -- administrative</p> <p>13 assistant to Ivy Pinkston.</p> <p>14       What I know for sure is that the</p> <p>15 protocols that was established for that work</p> <p>16 progress for Finance &amp; Development was no longer</p> <p>17 followed. Eunetter Steele had developed the work</p> <p>18 protocol with the leadership of Ivy Pinkston. After</p> <p>19 Jim took the position, those protocols fell apart.</p> <p>20 Q. Can you elaborate on that?</p> <p>21 A. Eunetter Steele remained in her position</p> <p>22 after the passing of Ivy Pinkston, and made herself</p> <p>23 available to assist, to train, and help in any way</p> <p>24 whatsoever for the new deputy comptroller for</p> <p>25 development, which was Jim Garavaglia. I was told</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. (By Mr. Schmitz) Was that something that</p> <p>2 Chana Morton -- it was part of her job expectation?</p> <p>3 A. Absolutely.</p> <p>4 Q. Okay. So just to be clear, your</p> <p>5 administrative assistant, one of her job roles is to</p> <p>6 observe the practices of the deputy comptroller and</p> <p>7 the deputy comptroller for Finance &amp; Development?</p> <p>8 A. One of her roles is to make sure that the</p> <p>9 comptroller's instructions that she is well aware of</p> <p>10 and understands is adhered to when it comes to</p> <p>11 receiving documentation on behalf of me, the</p> <p>12 comptroller. She understood the well-oiled system</p> <p>13 because it existed from the beginning of the</p> <p>14 creation of the position itself.</p> <p>15       It was not rocket science. We were</p> <p>16 handling and managing very important financial</p> <p>17 documents that had not, before the position,</p> <p>18 occurred as regularly as it was occurring during my</p> <p>19 administration.</p> <p>20 Q. When did you become aware of this? You</p> <p>21 said you observed it and you were told by two</p> <p>22 individuals.</p> <p>23 A. Mishaps occurred.</p> <p>24 Q. No. My question is when.</p> <p>25 A. Mishaps occurred when Jim Garavaglia, when</p>
<p style="text-align: right;">Page 119</p> <p>1 and observed that those protocols were not followed.</p> <p>2 Those were instructions of my office from me, the</p> <p>3 comptroller, to have those well-oiled procedures and</p> <p>4 policies to be continued. And they were not</p> <p>5 followed.</p> <p>6 Q. Who told you that?</p> <p>7 A. I observed --</p> <p>8 Q. I know you said that. Who told you that.</p> <p>9 You said somebody told you?</p> <p>10 A. I didn't say that. I said I observed.</p> <p>11 Q. You said I was told -- could you read the</p> <p>12 record back just to be clear?</p> <p>13 THE COURT REPORTER: Answer: Eunetter</p> <p>14 Steele remained in her position after the</p> <p>15 passing of Ivy Pinkston, and made herself</p> <p>16 available to assist, to train, and help in any</p> <p>17 way whatsoever for the new deputy comptroller</p> <p>18 for development, which was Jim Garavaglia. I</p> <p>19 was told and observed that those protocols were</p> <p>20 not followed. Those were instructions of my</p> <p>21 office from me, the comptroller, to have those</p> <p>22 well-oiled procedures and policies to be</p> <p>23 continued. And they were not followed.</p> <p>24 A. I was told by Eunetter Steele and by my</p> <p>25 assistant, Chana Morton.</p>	<p style="text-align: right;">Page 121</p> <p>1 he was --</p> <p>2 Q. When did you become aware of it?</p> <p>3 A. I became aware immediately upon Jim</p> <p>4 Garavaglia's handling of documentation that was</p> <p>5 Finance &amp; Development that was mishandled. In other</p> <p>6 words, the handling of the documents was no longer</p> <p>7 the same as had been before he took the position.</p> <p>8 So that was an immediate.</p> <p>9 Q. Okay. So --</p> <p>10 A. It was immediate. And I -- not only was I</p> <p>11 observing it, but I asked a question about it</p> <p>12 because I needed to know who and why. It was that</p> <p>13 important to know. I did not want to jump to a</p> <p>14 conclusion and say that it was somebody when it was</p> <p>15 not. But I needed to know. So the observation was</p> <p>16 immediate.</p> <p>17 Q. Okay. So what steps did you take in</p> <p>18 response?</p> <p>19 A. I asked questions.</p> <p>20 Q. To whom?</p> <p>21 A. Eunetter Steele, Chana Morton, Jim</p> <p>22 Garavaglia.</p> <p>23 Q. And then what?</p> <p>24 A. I was given answers.</p> <p>25 Q. And then what?</p>

<p style="text-align: right;">Page 122</p> <p>1 A. And then I had to observe the next go 2 around to see if there were corrections made based 3 on instructions that I had given after having the 4 discussions about the process and how the process 5 should go. And this is a process about making sure 6 that there's a circulation of the documents which 7 was efficient and in order to make sure that we are 8 meeting deadlines.</p> <p>9 Whenever there's a financing, there's 10 deadlines that are in place. Elected officials are 11 not always going to be at their desk, the major, the 12 comptroller, the treasurer and other signers of 13 public officials that were supposed to sign the 14 documents, were not necessarily going to all be in 15 one place during the time the documents were 16 approaching for signature. And the deadlines were 17 in stone; not the individuals.</p> <p>18 Q. Okay. Before we talk about the process at 19 length --</p> <p>20 A. You're cutting me off, sir. I would like 21 to finish and it won't take long. And it's very 22 important.</p> <p>23 Q. Go ahead.</p> <p>24 A. Like I said, the deadline was in stone, 25 but not the individuals. So what was in place was</p>	<p style="text-align: right;">Page 124</p> <p>1 A. The documentation would be in the form of 2 a narrative given to an attorney which I believe you 3 also have the narrative.</p> <p>4 Q. Was it -- okay. You are referring to 5 documentation in July of 2019?</p> <p>6 A. It follows --</p> <p>7 Q. Was there any documentation prior to that?</p> <p>8 A. I believe so. But I can't recall 9 specifically at this time. But I believe so.</p> <p>10 Q. Okay. How long was Jim the deputy 11 comptroller?</p> <p>12 A. From, I believe, June -- May or June of 13 2016, until he retired in 2019.</p> <p>14 Q. So in those three years before he was 15 placed on forced leave, what was done in response to 16 what you just articulated you observed and were also 17 told by two different individuals?</p> <p>18 A. Well, let me give you an example. I got a 19 call from Joyce Opinsky, who's a banker with Stern 20 Brothers, the morning of a closing of a financing. 21 She was alarmed. It was in the morning. I was on 22 the way to a doctor's appointment. Joyce Opinsky 23 said: If you don't mind, Comptroller, I need your 24 signature.</p> <p>25 I was in shock. I said: Joyce.</p>
<p style="text-align: right;">Page 123</p> <p>1 for the secretaries of -- and assistants, the 2 assistants for each elected official and other 3 officials who were going to sign the documents to 4 find out where those individuals would be and to 5 inform them that there were some important documents 6 that were going to be coming within a certain time 7 period or window. And then they would arrange among 8 themselves when to get the documents to those 9 individuals so that the deadlines which were very 10 important could be met without question.</p> <p>11 Over a couple of decades, that worked 12 perfect. Then all of a sudden, I observed a 13 dismantling of that system, a well-oiled system that 14 seemed to just stop working. And while Eunetter 15 Steele was still present, I couldn't understand. So 16 maybe there's something that I'm not understanding. 17 So I kept going back, giving the instruction, to 18 make sure you follow direction. And then those 19 directions were not followed by Jim.</p> <p>20 Q. And you've documented this?</p> <p>21 A. I did.</p> <p>22 Q. Over the course of his time as the deputy 23 comptroller?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Where is that documentation?</p>	<p style="text-align: right;">Page 125</p> <p>1 She says: Comptroller, whatever you 2 do, I need your signature by noon.</p> <p>3 I said: But Jim -- and I remembered 4 this so well because her office was in Clayton and I 5 was driving to my doctor's appointment at the time. 6 I said: Joyce, no worries. I'll swing by your 7 office.</p> <p>8 I'll come down the elevator. I'll 9 meet you in the lobby.</p> <p>10 I went to Stern Brothers. I signed 11 the document. And Joyce and I spoke about how this 12 is happening, how this is happening, and how this 13 had to happen.</p> <p>14 She says: I don't care about what 15 you guys got to do. In order to sell these bonds, I 16 need your signature. Thank you so much.</p> <p>17 I went to my doctor's appointment. I 18 didn't hear from Jim that day. But what I heard 19 from others in the office is that Jim was surprised 20 that the document was signed. That was the first 21 time I observed that I'm aware --</p> <p>22 Q. Did you speak to Jim about this?</p> <p>23 A. I did not. Jim did not call me. He's my 24 subordinate.</p> <p>25 Q. Did you seek to talk to him about it?</p>

<p style="text-align: right;">Page 126</p> <p>1 A. I probably was more concerned with my 2 health on that day that I had just come from the 3 doctor.</p> <p>4 Q. Did you follow up?</p> <p>5 A. I did not follow up until later on in the 6 weeks. Because certainly there were other documents 7 that were circulating. And, yes, I pulled Jim into 8 the office for a conference and a consultation on 9 matters that had to do with signing documents and 10 circulating them. I did that multiple times.</p> <p>11 Not only was it Jim and his 12 secretary, it was also Jim's secretary and Eunetter 13 in my office to have consultation on circulation of 14 the documents and the understanding of such in terms 15 of the importance of how you get the documents 16 circulated properly to let the elected officials 17 know that you'll meet them at a certain time and 18 place to sign documents, instead of having an 19 investment banker to call you while you're on the 20 way to the doctor.</p> <p>21 Q. So when was this?</p> <p>22 A. This was early on in Jim's tenure as 23 deputy comptroller. He began June of -- or June of 24 2016. So it was either the 2016 or 2017 year. It 25 was early. It was early enough to alarm me that I</p>	<p style="text-align: right;">Page 128</p> <p>1 you going to do this? 2 At the time Sheila cried.</p> <p>3 Q. So where's this document is what I asked. 4 A. It's in the City of St. Louis 5 comptroller's office, and it would be in 1520 6 Market.</p> <p>7 Q. Does it have a title? 8 A. I'm telling you where it is. You're 9 asking me. So if you allow me to tell you the rest. 10 Q. Go ahead. You want to answer the question 11 fully. You say I'm not giving you a chance. 12 A. The document is in the City of St. Louis 13 Comptroller's office at 1520 Market.</p> <p>14 Q. You said that already. Is there anything 15 else you want to add to that? 16 A. No. 17 Q. Okay. So does it have a title? Is it 18 labeled in some conspicuous way? 19 A. I don't know. I didn't prepare it myself. 20 Q. But you reviewed it? 21 A. Yes. 22 Q. Okay. And this was put together and your 23 testimony is that it was made available to Jim. It 24 was explained to Jim that it had to be followed. Is 25 that what your testimony is?</p>
<p style="text-align: right;">Page 127</p> <p>1 had to have a call from an investment banker to ask 2 for my signature instead of my subordinate who was 3 Jim Garavaglia, who should have called me or my 4 assistant to find out where I would be to sign a 5 document so it could be in time for the closing. 6 That's millions of dollars of City 7 taxpayer's dollars that we're talking about here. 8 And I had given strict instructions on how, that 9 these procedures for signature should happen. And 10 Jim did not follow them.</p> <p>11 Q. Where are these procedures? What document 12 are they contained in?</p> <p>13 A. These procedures come from the comptroller 14 verbally.</p> <p>15 Q. Did you ever memorialize any of these 16 strict detailed instructions?</p> <p>17 A. Yes. Eunetter Steele did that.</p> <p>18 Q. Where are they?</p> <p>19 A. I don't -- there was a fold -- there's a 20 thick book in the Office of the Comptroller which 21 was shared with Jim's secretary, from Eunetter 22 Steele to Jim's secretary. And it happened in my 23 office. I was sitting right there. I said: 24 Sheila, are you going to do this work here that 25 it -- it says this is how you circulate these. Are</p>	<p style="text-align: right;">Page 129</p> <p>1 A. My testimony is the document was made 2 available by Eunetter Steele to help and assist in 3 any way she could, Jim Garavaglia, the secretary to 4 Jim Garavaglia, any assistant to Jim Garavaglia to 5 get the job done. That's my testimony.</p> <p>6 Q. Okay. So this document was created. You 7 were aware of it. You are saying that Jim was 8 provided with it. Was expected to follow it but 9 didn't right out of the gate and continuously 10 throughout his employment. Did you not follow up 11 with him? Did you not take any type of disciplinary 12 action?</p> <p>13 A. I followed up with him, yes, and I 14 followed up with him regularly.</p> <p>15 Q. In what way?</p> <p>16 A. I gave Jim verbal reprimands regularly.</p> <p>17 Q. Did you ever put that in an e-mail?</p> <p>18 Anything related to this issue and his noncompliance 19 with your expectation get memorialized in writing?</p> <p>20 A. I'm not sure.</p> <p>21 Q. So you're unaware if it did or didn't?</p> <p>22 A. I am unsure that I memorialized it in 23 writing on this particular issue, I am unsure. But 24 I'm very sure that I gave direct instructions to Jim 25 on how to circulate documents. And I'm very sure</p>

<p style="text-align: right;">Page 130</p> <p>1 that he did not ever follow those instructions as I      2 had given them to him. And it was very troubling to      3 me that he couldn't do that, because I did take the      4 time and the steps to continuously speak to him and      5 also monitor and also speak to other professionals.</p> <p>6 Q. Then there were witnesses to all these      7 conversations?</p> <p>8 A. There was not direct witnesses to when I      9 spoke to Jim. But there are people that I spoke to      10 about the problem.</p> <p>11 Q. Okay. Who would those be?</p> <p>12 A. Well, I spoke to -- one of the persons      13 that I spoke to was the financial advisor. I      14 mentioned very casually that I was experiencing an      15 issue. And her response was very short. And I      16 decided that I needed to be more vigilant in my      17 observation so that I would not miss or misinterpret      18 or misunderstand whether there was a      19 misunderstanding on Jim's part or his staff.</p> <p>20 Q. Okay. And what determinations did you      21 make?</p> <p>22 A. I determined that after I had given Jim      23 Garavaglia a directive and direct instructions, that      24 not only did he not follow them, was that he was not      25 going to follow them, is what I determined.</p>	<p style="text-align: right;">Page 132</p> <p>1 City of St. Louis Airport is an      2 example. Water department, another example.      3 Parking division, another example when it comes to      4 issuing bonds and expecting to adhere to deadlines      5 and meeting those deadlines. Because again, those      6 are hard deadlines. The people who have to sign the      7 documents are not.</p> <p>8 Q. How many of those deadlines were missed      9 during Jim's tenure?</p> <p>10 A. During Jim's tenure, the deadlines were --      11 that were there for each of those were not all met      12 because of Jim. Because Jim --</p> <p>13 Q. Is this documented?</p> <p>14 A. Yes, it is.</p> <p>15 Q. So there's sales that --</p> <p>16 A. Yes, it is. For example, Vertical Real      17 Estate's closing, that deadline was met without Jim.</p> <p>18 Q. So it was met?</p> <p>19 A. It was met because I'm observing and I      20 took a special role to observe once I found out that      21 Jim was not handling the documents properly.</p> <p>22 Q. So my question was, how many deadlines      23 were not met?</p> <p>24 A. I heard your question. And I gave you an      25 answer.</p>
<p style="text-align: right;">Page 131</p> <p>1 Q. When did you make this determination?</p> <p>2 A. I made that determination after the fiasco      3 that happened with the documents with the real      4 estate closing of Vertical Realty. I knew then with      5 that fiasco that Jim was never going to follow the      6 directive and protocol and procedure to circulate      7 the documents in a professional manner, in a proper      8 manner, so that they could be signed and a deadline      9 could be met properly.</p> <p>10 Q. All right. So describe this process to      11 me. What -- give me the detailed description of      12 exactly what should have been done and what should      13 be done in each one of these cases?</p> <p>14 A. We have financial closings that involve      15 investment bankers. But you also have financial      16 closings or extensions or development deals. You      17 have all of those kinds of dealings. Each of those      18 kinds of deals, you have different protocols. But      19 the bottom line is you have different persons who      20 need to be available to sign the documents. And the      21 job is to act in a sense of urgency to meet the      22 deadlines on behalf of those who are developers, who      23 are expecting that their project shall be closed on      24 time. And on behalf of the City of St. Louis who's      25 the issuer of the bonds in most cases.</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Well, you said --</p> <p>2 A. And my answer is that --</p> <p>3 THE COURT REPORTER: One at a time,      4 please.</p> <p>5 MR. NORWOOD: She was answering and you      6 keep talking over her.</p> <p>7 MR. SCHMITZ: Well, no. Her answer --</p> <p>8 MR. NORWOOD: No. You are cutting her      9 off.</p> <p>10 MR. SCHMITZ: Every single time.</p> <p>11 MR. NORWOOD: But you should know better.</p> <p>12 MR. BLANKE: Not much.</p> <p>13 (Whereupon there was an      14 off-the-record discussion.)</p> <p>15 MR. SCHMITZ: We're good.</p> <p>16 Q. (By Mr. Schmitz) I'm going to ask politely      17 that your answers are responsive to the questions.</p> <p>18 That's the reason I keep repeating it. And if I'm      19 asking the question again, it's because your answer      20 is not responsive to my question.</p> <p>21 MR. NORWOOD: And I'm objecting as being      22 argumentative. She is answering your question.</p> <p>23 And when you don't like the answer, you cut her      24 off and that's what causing the confusion.</p> <p>25 MR. SCHMITZ: Your objection is noted. I</p>

<p style="text-align: right;">Page 134</p> <p>1 don't agree with you, but it's on the record.</p> <p>2 Q. (By Mr. Schmitz) Now, how many times were</p> <p>3 deadlines not met? One? Two? Five?</p> <p>4 A. There were no deadlines not met, but it</p> <p>5 was because of the Comptroller, Darlene Green, who</p> <p>6 is sitting here answering these questions to you and</p> <p>7 the staff of the comptroller put in place a</p> <p>8 procedure and a process to make sure deadlines are</p> <p>9 met. It is our job to do the right thing in the</p> <p>10 Office of the Comptroller to protect the integrity</p> <p>11 of the office, is what we were doing.</p> <p>12 Q. Well, I mean you're laying all the blame</p> <p>13 at the feet of Jim. So my question is, how many of</p> <p>14 these bonds were effected negatively and you've</p> <p>15 answered my questions. Now, how many bond sales</p> <p>16 were successfully completed during Jim's time as</p> <p>17 comptroller? Did you look at that?</p> <p>18 A. Is that a question?</p> <p>19 Q. It is, yes.</p> <p>20 A. Did I look at it?</p> <p>21 Q. Do you know the answer?</p> <p>22 A. Do I know the answer to what?</p> <p>23 Q. Do you know the answer?</p> <p>24 A. The answer to whether I looked at</p> <p>25 something or the answer to how many bond deals</p>	<p style="text-align: right;">Page 136</p> <p>1 MR. SCHMITZ: This has now taken on the</p> <p>2 role of a speaking objection which we have --</p> <p>3 MS. HAMILTON: -- being inserted in your</p> <p>4 question.</p> <p>5 MR. NORWOOD: Why don't we do this --</p> <p>6 MR. SCHMITZ: You guys are doing exactly</p> <p>7 the same thing that you said was wildly</p> <p>8 inappropriate during the last deposition that</p> <p>9 was taken of my client. I'm going to ask that</p> <p>10 we can all proceed --</p> <p>11 MR. NORWOOD: Let's take a break.</p> <p>12 MR. SCHMITZ: Can I finish before you</p> <p>13 interrupt me?</p> <p>14 MR. NORWOOD: You can finish.</p> <p>15 MR. SCHMITZ: Thank you. First of all,</p> <p>16 I'm not going to take a break until I get an</p> <p>17 answer to the question. Second, I'm going to</p> <p>18 ask you both to not make speaking objections.</p> <p>19 You can make your points and that's that. I</p> <p>20 made a request and you can decline to do that</p> <p>21 or not.</p> <p>22 That being said, that's my request on the</p> <p>23 record that your client not cut me off, that</p> <p>24 your client answer the questions as asked, and</p> <p>25 when I ask for the question to be answered,</p>
<p style="text-align: right;">Page 135</p> <p>1 closed while Jim was the deputy comptroller for</p> <p>2 Finance &amp; Development?</p> <p>3 Q. If you know the answer, please tell me.</p> <p>4 A. Is that the question?</p> <p>5 MR. SCHMITZ: Counsel, she's deliberately</p> <p>6 arguing with me when it's very clear to me what</p> <p>7 I'm asking.</p> <p>8 MR. NORWOOD: She's not arguing.</p> <p>9 MR. SCHMITZ: I'm going to respectfully</p> <p>10 request on the record that you instruct your</p> <p>11 client to simply answer the question as asked.</p> <p>12 MR. NORWOOD: She's not arguing with you.</p> <p>13 She's trying to get clarity on what you're</p> <p>14 asking and you're not providing clarity.</p> <p>15 MR. SCHMITZ: I asked repeatedly do you</p> <p>16 know the answer and what is it.</p> <p>17 MS. HAMILTON: That's not a clear</p> <p>18 question. The reason that she's trying to</p> <p>19 clarify the question is because every question</p> <p>20 you present is compound. So she's asking if</p> <p>21 you want her to answer the first part or the</p> <p>22 second part. Just because it's clear to you,</p> <p>23 does not mean it's not clear for the witness.</p> <p>24 And you're becoming argumentative when you're</p> <p>25 inserting various speaking testimony --</p>	<p style="text-align: right;">Page 137</p> <p>1 that you don't interrupt when it's not being</p> <p>2 answered.</p> <p>3 MR. NORWOOD: Are you done?</p> <p>4 MR. SCHMITZ: Go ahead.</p> <p>5 MR. NORWOOD: Okay. In response to that,</p> <p>6 we are more than willing to allow the witness</p> <p>7 to finish her answer, if you allow her to</p> <p>8 finish the answer. We're more than willing to</p> <p>9 have her answer a question that's clearly put</p> <p>10 out before her. And we have -- just like you</p> <p>11 would with your witness, if she doesn't</p> <p>12 understand the question, she is probing to find</p> <p>13 out what you are asking. The questions are</p> <p>14 confusing. They're compound. And every time</p> <p>15 she starts answering and you don't like it, you</p> <p>16 cut her off.</p> <p>17 You're being belligerent to her. You're</p> <p>18 badgering her. And we're not going to tolerate</p> <p>19 it. Okay? So what I would suggest is we take</p> <p>20 a break. We take a breath. We come back and</p> <p>21 we proceed in an orderly fashion that we're</p> <p>22 supposed to, which is to allow the witness to</p> <p>23 answer the question or have the witness try to</p> <p>24 clarify the question so she can give you a</p> <p>25 complete answer.</p>

<p style="text-align: right;">Page 138</p> <p>1       MR. SCHMITZ: I have no problem clarifying 2       the questions.</p> <p>3       MR. NORWOOD: There we go.</p> <p>4       MR. SCHMITZ: That's not my issue. That 5       was never my objection. That wasn't even part 6       of my request.</p> <p>7       MR. NORWOOD: It's part of mine.</p> <p>8       MR. SCHMITZ: I asked if you would 9       politely ask your client to not interrupt me 10      either. That's not only been my request. You 11      didn't respond to that part. Let me revisit my 12      question again.</p> <p>13      Are we still on the record?</p> <p>14      THE COURT REPORTER: Yes.</p> <p>15      Q. (By Mr. Schmitz) How many successful bond 16      contract issues were executed during Jim's tenure?</p> <p>17      A. I don't know the number.</p> <p>18      Q. Do you know approximately?</p> <p>19      A. I would say successful bond issues, I 20      recall a 2016 bond issue. I recall a 2018 bond 21      issue. Both of those were general obligation bond 22      issues. There would have been possibly some 23      refinancings. And I'm not sure if there was one or 24      two refinancings. So roughly anywhere between five 25      and eight possibly.</p>	<p style="text-align: right;">Page 140</p> <p>1       and Jim was present along with other members of the 2       staff. There were just multiple meetings.</p> <p>3       Q. Okay.</p> <p>4       A. It was pretty common.</p> <p>5       Q. So I'm going to go back near the very 6       beginning. Do you ever recall talking to him about 7       his future in that job?</p> <p>8       A. Yes.</p> <p>9       Q. Did you talk to him about how long he 10      intended to work?</p> <p>11      A. I wanted him to stay there as long as 12      possible. That's my MO, modus of operandi. If I'm 13      working, I want you to be working. I want you 14      working with me. I want you working alongside me. 15      I want you to be a partner in the job of working in 16      the Office of the Comptroller.</p> <p>17      I am very well-known to have been a 18      person that promotes from within. And am very 19      hopeful that the people who work for me want to work 20      for me forever. Because I like to train, help 21      educate, I want to see people do well. I want to 22      see people that work for me to do well. And I've 23      shown it in my practice. When I promote you, I have 24      elevated you to a place of responsibility along with 25      more salary. Not only to help you but help your</p>
<p style="text-align: right;">Page 139</p> <p>1       MR. SCHMITZ: You guys want to take a 2       break?</p> <p>3       MR. NORWOOD: Yeah. Take a break. 4                   (Whereupon there was a short 5                   break, 2:02 p.m. to 2:24 p.m.)</p> <p>6       Q. (By Mr. Schmitz) So I want to talk about 7       after Jim was hired when he first started in that 8       position as the deputy comptroller for Finance &amp; 9       Development. Do you recall having any initial 10      meetings with him?</p> <p>11      A. Yes.</p> <p>12      Q. Okay. What did you discuss at those 13      meetings?</p> <p>14      A. There was, I guess, more than one meeting. 15      There was -- I would say more than one topic, 16      several topics. One would have been about the job 17      expectations.</p> <p>18      Q. Okay.</p> <p>19      A. Then there would have been other times 20      where there was meetings on other subjects having to 21      do with work. There were many meetings because 22      there was lots of work, lots of topics, areas of 23      concern that we were working on at the time. There 24      were meetings where there was Jim and just myself. 25      There was meetings where there were multiple people</p>	<p style="text-align: right;">Page 141</p> <p>1       family.</p> <p>2                   Because you have chosen to work in 3       the Office of the Comptroller, I believe in giving a 4       benefit for that. I believe that is something that 5       will help the individual employee enjoy the job even 6       that much more. So that they would want to continue 7       on working for the Office of the Comptroller.</p> <p>8                   Because there was a lot of times that 9       employees didn't get raises. But if they got a 10      promotion, then a raise came with that. That I 11      would hope that that would cause them to want to 12      have a loyalty to the Office of the Comptroller and 13      to work in the Office of the Comptroller. Because 14      the Office of the Comptroller in the City of 15      St. Louis was an office that I felt, I guess -- we 16      did a lot of good for the community. I really 17      believe that.</p> <p>18                   We were complimented a lot in terms 19      of how we served the public, especially during times 20      when the public would call, ask for services. And 21      instead of us saying, sorry, you got the wrong 22      office, we'd say wait one moment. We will direct 23      you to the people that you need to talk to. And we 24      were happy to have that reputation. And I was happy 25      to have an employee that would want to stay with the</p>

<p style="text-align: right;">Page 142</p> <p>1 Office of the Comptroller. That had experience and 2 that had worked in the community, that had family 3 ties in the community. It was very important. 4 Q. Did you ever talk to him about retirement 5 in the beginning? 6 A. I talked to him about retirement hoping 7 that he would not retire, is what I would most 8 definitely have said to him as well as employees 9 that worked for me. I hope you wouldn't retire 10 because we need you, want you, in the job. 11 Q. Do you -- did you talk to him by phone or 12 in person when you -- 13 A. In person. 14 Q. No. When you offered him the job? 15 A. I'm not sure if it was by phone or in 16 person when I offered him the job. I don't know. I 17 just can't recall right now. 18 Q. Do you recall ever asking him if he was or 19 stating to him that he would be going out on top? 20 A. Well, in the most complimentary way I did. 21 I was so happy that he was now making a lot more 22 money than he would have been making had he not been 23 promoted to the job. So that being the top job in 24 the office, I was ecstatic for him. And I expressed 25 that to him.</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Yes. 2 A. No. 3 Q. I know we talked about after he was in the 4 position, you guys met. And I'm not going to repeat 5 and get into that again. But I do want to ask about 6 a meeting that may have been around March or April 7 of 2019 between you and Bev Fitzsimmons. I don't 8 know if that's enough information to help you to 9 know if that meeting happened or not or if you 10 recall. But I'll ask that now. 11 Do you recall based on that 12 information, a meeting in or around March, 13 April '19 regarding your running for reelection? 14 A. No, I do not recall. 15 Q. Okay. Do you recall any specifics of any 16 conversation you had with Jim where you may have 17 asked him if he intended to retire and when? 18 A. In the same year or could you -- 19 Q. During any point. 20 A. I would have had a conversation with Jim 21 and my other deputy comptroller as to whether they 22 would be in my office working for me as long as I 23 was the comptroller. That would have been the 24 conversation that I would have and have had in the 25 past with deputy comptrollers of the comptroller</p>
<p style="text-align: right;">Page 143</p> <p>1 Because now instead of having an 2 Asset Manager II salary to retire on whenever he 3 chose to do that, he would retire at the top 4 position that he could have in the Office of the 5 Comptroller. And by God, I was wanting to 6 congratulate him on that. Because I was happy about 7 it. And I would hope that he would be happy about 8 it. 9 Q. Do you know if anybody else was a witness 10 to that conversation? 11 A. I'm not sure. 12 Q. Okay. You don't recall? 13 A. No, I don't recall. 14 Q. And did you ever think about if Jim 15 retired or was no longer in that position, who his 16 replacement might be? 17 A. Yes. I did think about that. 18 Q. Okay. Did you have any thoughts or plans? 19 A. Well, I thought about it in terms of the 20 asset manager portion of it, is that what you're 21 asking, or are you asking about the deputy 22 comptroller? 23 Q. Well, I'm asking if you ever thought about 24 who might replace him. 25 A. While he was in the position?</p>	<p style="text-align: right;">Page 145</p> <p>1 since I had the job. Because every four years, I 2 would not know whether I had a job. 3 But I did know that as a civil 4 servant, the employees that work for me, they would 5 have a job. So I wanted to know if they were still 6 wanting to be there working for me in the Office of 7 the Comptroller. So that would have been the 8 question that I would have had. 9 Q. So you used the words "would have." Do 10 you have any specific recollection of any particular 11 meetings where you recall having that actual 12 conversation? 13 A. I would have made the statement similar to 14 or in the context of hope -- that I would hope that 15 they were not going to retire if I'm planning to run 16 for reelection. Running for reelection never 17 guaranteed whether I was going to be elected or not. 18 And a high-level employee would be in jeopardy when 19 or if I was not elected. I was clear about that. 20 I was very protective of my 21 employees. So I didn't want to put any jeopardy in 22 their way if I plan to just not run for reelection. 23 So I'm saying it was like kind of a team, a work 24 team, if you will. 25 Q. Do you recall actually having that</p>

<p style="text-align: right;">Page 146</p> <p>1 conversation, though, specifically?</p> <p>2 A. With Beverly and with Jim at some point.</p> <p>3 I met with them both --</p> <p>4 Q. So you did --</p> <p>5 A. -- to let them know. This was June 11,</p> <p>6 2019 in the 1520 building, the same day that there</p> <p>7 was a special E&amp;A meeting scheduled. And I asked</p> <p>8 for a meeting with Beverly and I asked Jim to join</p> <p>9 me on that day. To instead of going to the E&amp;A</p> <p>10 meeting, which was June 11, 2019, I would be absent</p> <p>11 and I asked that my staff be absent. And in lieu of</p> <p>12 going to the E&amp;A meeting, we would meet and just</p> <p>13 talk. And that was June 11, 2019. And we talked</p> <p>14 about several issues.</p> <p>15 One of the first ones was whether or</p> <p>16 not any of us had heard from the airport or the</p> <p>17 airlines regarding the issue of the airline or</p> <p>18 airport financing. Because that was the issue that</p> <p>19 the mayor wanted the special meeting about, to vote.</p> <p>20 And the airlines -- I had understood as I was going</p> <p>21 into that meeting, I just heard that the airlines</p> <p>22 had threatened to come or show up if there was such</p> <p>23 a meeting to be held.</p> <p>24 So I thought it would be best to be</p> <p>25 outside of city hall and nowhere near just in case</p>	<p style="text-align: right;">Page 148</p> <p>1 I remember asking about Jim's</p> <p>2 secretary Sheila, because there had been some</p> <p>3 problems which was discussed about the circulation</p> <p>4 of documents, which I was led to believe she was the</p> <p>5 problem with that. So I made a point to ask him</p> <p>6 face-to-face about Sheila, was she okay, was she</p> <p>7 going to be okay following the instructions. I made</p> <p>8 the point to talk about whatever it is that they had</p> <p>9 asked me. That Beverly had asked. She was present.</p> <p>10 You know, the three of us was present in the</p> <p>11 conference room. I believe we stayed for an hour or</p> <p>12 less in the meeting.</p> <p>13 Q. Okay. Did you ever give Jim any service</p> <p>14 ratings?</p> <p>15 A. I did not, except for when I had to by --</p> <p>16 I believe to his working test period.</p> <p>17 Q. Okay. Any particular reason why not?</p> <p>18 A. Because I don't give ratings generally to</p> <p>19 any of my employees.</p> <p>20 Q. You say generally, is --</p> <p>21 A. Generally unless they ask for it and force</p> <p>22 me.</p> <p>23 Q. Did you give ratings to Bev?</p> <p>24 A. For her working test period, I believe I</p> <p>25 did.</p>
<p style="text-align: right;">Page 147</p> <p>1 there were some issues of press. Later after that</p> <p>2 meeting, we learned that the airlines had sent the</p> <p>3 mayor a letter at noon on that day letting her</p> <p>4 specifically what she needed to do with regard to</p> <p>5 that airport financing and what their purpose was.</p> <p>6 They said they prefer the comptroller's financing to</p> <p>7 whatever she was proposing. And that if there was</p> <p>8 such a vote that would go awry of that, that she</p> <p>9 would hear from them. And that letter came from the</p> <p>10 American Airline and Southwest Airline.</p> <p>11 So that day was a very memorable day</p> <p>12 because of that issue. And I know who I was with.</p> <p>13 I was with those -- and as a matter of fact, the</p> <p>14 meeting was at 2:00 at the same time the scheduled</p> <p>15 E&amp;A meeting was.</p> <p>16 Q. And did this meeting include discussions</p> <p>17 about their future plans?</p> <p>18 A. It included conversations about whether or</p> <p>19 not -- in addition to the conversation, which a</p> <p>20 large part of the conversation had to do with the</p> <p>21 airport, and the other part had to do with whether</p> <p>22 or not they were wanting to be in the comptroller's</p> <p>23 office, that was what that was about. And I</p> <p>24 remember asking if they had any concerns. Do you</p> <p>25 have any concerns?</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. How about since then?</p> <p>2 A. I don't believe I did.</p> <p>3 Q. I'm not going to go through each of them</p> <p>4 in turn, but we talked about other employees that</p> <p>5 report directly to you. Would you be the one</p> <p>6 responsible for doing the ratings if someone were to</p> <p>7 do a rating?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know whether you've done ratings</p> <p>10 for any of those individuals?</p> <p>11 A. I do not believe I've done them.</p> <p>12 Q. And why don't you do them unless the</p> <p>13 employee asks for it?</p> <p>14 A. It is not one of the work -- for work.</p> <p>15 It's not one of the favorite things for me to do.</p> <p>16 Q. Is it your understanding that it's</p> <p>17 optional, or do you know if it's something policy</p> <p>18 requires?</p> <p>19 A. It's my understanding employees would</p> <p>20 receive their maximum merit raises with or without</p> <p>21 the rating. And they also would be considered</p> <p>22 satisfactory across the board without a rating.</p> <p>23 Q. There are two types of raises, though,</p> <p>24 correct?</p> <p>25 A. I'm not sure what you mean.</p>

1 Q. Well, there's merit based raises based on  
 2 your performance and raises based on a particular  
 3 classification, right, that are based on percentage  
 4 either City wide or specific to a classification?  
 5 Is that not correct?

6 A. For years we've only had the one. Since  
 7 2009, we've had the one type of the raise which was  
 8 the merit increase.

9 Q. How would an employee get a merit based  
 10 increase without a rating, one that was based on  
 11 performance?

12 A. The personnel regulations require that  
 13 absent of an annual review, would be considered the  
 14 same as an annual review given in a successful or  
 15 above successful rating.

16 Q. Do you know what regulation that's from?

17 A. I do not.

18 Q. Do you know if it's an administrative  
 19 regulation or if it comes from an ordinance or --

20 A. I do know it's a personnel regulation.

21 Q. So like an internal regulation with that  
 22 department?

23 A. I'm not sure.

24 Q. Okay. Before I talk about the events in  
 25 June of 2019 that we've already touched on, I want

1 delivery, I have chosen to delegate that part of the  
 2 forced leave as a matter of practice.

3 Q. Do you know the circumstances of what  
 4 happened to Jim after he was presented with the  
 5 forced leave at all; are you familiar with that?

6 A. I do not know directly, only by what I was  
 7 told. And I do believe I was told that a successful  
 8 delivery of the letter occurred.

9 Q. Okay. Do you know anything about him  
 10 being escorted out of the building?

11 A. I believe there was more than one employee  
 12 that met with -- that met together to meet Jim at  
 13 the time of the delivery of that information.

14 Q. Who were the other employees?

15 A. I think it was -- I believe I was told it  
 16 was Kelly Anderson. And I don't know who the other  
 17 employee would have been from the 1520 --

18 Q. Do you know -- sorry. Go ahead and  
 19 finish.

20 A. From 1520 Market.

21 Q. Do you know anything about Cindy Marshall  
 22 being present?

23 A. That may have been the other employee.  
 24 But I don't know personally if that was true.

25 Q. Okay. Do you know -- Well, let me strike

1 to fast-forward a little bit just to July 2 itself  
 2 and talk about the actual forced leave notice. Do  
 3 you know who gave that to Jim?

4 A. I believe it was Judy Armstrong.

5 Q. Okay.

6 A. But I'm not sure.

7 Q. Did you participate in it?

8 A. I did not.

9 Q. And how come you did not participate?

10 A. I delegated the actual delivery.

11 Q. And what was your reason for delegating  
 12 it?

13 A. I delegated the delivery of forced leave,  
 14 is my reason. I do delegate that activity.

15 Q. Okay. What's the reason you delegate  
 16 them?

17 A. Pardon me?

18 Q. Excuse me. What is the reason you  
 19 delegate that particular duty?

20 A. The reason that I delegate the delivery of  
 21 a forced leave letter is because the forced leave  
 22 letter is prepared by me with the instructions or  
 23 approval of the personnel director. And after  
 24 having consultation and said approval from the  
 25 director, then the action of carrying out of

1 that.

2 If you know, whose decision was it to  
 3 have him immediately escorted off the premises  
 4 without even an opportunity to get his personal  
 5 items?

6 A. I don't know if that was a decision made  
 7 that was -- I don't know or not. But what I know is  
 8 that Judy Armstrong is the appointing authority for  
 9 personnel. And that she had the authority to set a  
 10 process in place for managing all personnel actions.

11 Q. Were you aware this was going to happen  
 12 when he was presented with this forced leave?

13 A. I was aware that he would be presented  
 14 with the information. I was aware of that, yes.

15 Q. Okay. What about being escorted out, not  
 16 being allowed to take personal items, that sort of  
 17 thing?

18 A. I don't know if I was aware at the time, I  
 19 don't know.

20 Q. Why did you decide to place him on forced  
 21 leave instead of issue a pretermination notice?

22 A. I had a couple of weeks of disturbing  
 23 incidents. One being at the E&A meeting. The  
 24 second being the second week, the Wednesday before  
 25 the Vertical Realty documents needed to be signed,

1 which was that Friday they needed to be signed, but  
 2 on that Wednesday, I got an e-mail from Tom Ray,  
 3 outside attorney who warned our office that there  
 4 would be trouble he believed, because he learned  
 5 that Jim Garavaglia had put the documents in the  
 6 interoffice mail.

7           So in that e-mail, I discerned that  
 8 the attorney was trying to protect the integrity of  
 9 the office with a warning about the documents. And  
 10 so I took steps. I was reminded of what had  
 11 happened the week before. And I said, okay, here we  
 12 are. Week two, let's get a plan together so that we  
 13 can have a smooth landing.

14           And so I took it upon myself to ask  
 15 my secretary to set up a conference call. Tom Ray,  
 16 I said, place him on the conference call with the  
 17 secretary of the mayor, which was Sherry  
 18 Wibbenmeyer, myself, my secretary, and  
 19 Jim Garavaglia. Those five people on the call.

20       Q. What date was this?

21       A. This was Wednesday, June 26. And it was  
 22 roughly around 4:00, a little after 4:00. We had  
 23 been given -- the e-mail had been received after  
 24 2:00 from Tom Ray, outside counsel, warning my  
 25 office about pending trouble because documents had

1 been placed in interoffice mail. In that e-mail,  
 2 Tom Ray stated that Jim should not have asked  
 3 Sherry, the secretary, to place the documents in the  
 4 interoffice mail.

5       Q. Is Tom Ray familiar with the circulation  
 6 process for the City?

7       A. He's extremely familiar with them. He's  
 8 worked over 30 years plus on finances and anything  
 9 and everything to do with the Office of the  
 10 Comptroller. He was a former City counselor. And  
 11 his job was to be counsel to the Office of the  
 12 Comptroller. And subsequent to that, he joined the  
 13 law firm of Armstrong Teasdale and continued to work  
 14 on financial matters for the Office of the  
 15 Comptroller.

16           So he was familiar with the  
 17 operations that had been put in place by Eunetter  
 18 Steele about circulating documents. And he had the  
 19 acute understanding that the secretaries had to make  
 20 sure that their bosses were in a place to sign the  
 21 documents. As a matter of fact, that e-mail was  
 22 sent to Chana Morton because of his acute knowledge  
 23 of how the circulation process worked.

24           Of course he would sound the alarm  
 25 when he found out that the documents had been placed

1 in interoffice mail, because he probably never heard  
 2 of such. And he stated in that e-mail that Jim  
 3 should have never put those documents in the  
 4 interoffice mail. These were important real estate  
 5 documents. As a matter of fact, they were down the  
 6 hall at the mayor's office. And the format that Tom  
 7 Ray was used to, one or the other secretary would  
 8 walk the documents down. If Sherry was busy, then  
 9 my secretary would walk down the hall and get the  
 10 documents and have them ready for review.

11           So that's the common practice that  
 12 Tom Ray was used to. And he also stated those very  
 13 words in his e-mail. He said: Sherry should have  
 14 walked the documents down.

15           So in answer to your question, why  
 16 did I consider a forced leave instead of immediate  
 17 disciplinary action, is because I needed to think  
 18 about what the disciplinary action should look like.

19       Q. What do you mean by that, you needed to  
 20 see what the disciplinary action would look like?

21       A. I wasn't clear. Jim was a valued employee  
 22 I had. Jim had many years in the Office of the  
 23 Comptroller. I said, no way I'm going to fire this  
 24 dude. I said, I'm going to look at this. I'm going  
 25 to see what we need to do here. So I called up and

1 had a discussion with the Director of Personnel and  
 2 explained the problem that I had, and gave him in  
 3 detail. And he told me, he said: Well, Jim's a  
 4 high level employee of yours. We have forced leave  
 5 to deal with employees like that. Then you can make  
 6 your decision.

7           I said: Well, you know, you're  
 8 right. So I chose to look at forced leave that  
 9 would give me at least ten to 14 days to make a  
 10 decision that was fair to Jim.

11       Q. Did you want --

12       A. I wanted to make a fair -- if you want me  
 13 to finish, I will.

14       Q. Go ahead.

15       A. I wanted to make a fair decision.

16       Something that was fair to Jim. I didn't want to  
 17 make a decision that was hasty. I wanted time to  
 18 think, because these were serious matters. I wanted  
 19 to know Jim understood how serious this was. This  
 20 is City money. This is a project that we had been  
 21 working tirelessly on for many, many years. And we  
 22 finally got it to a place where these guys were  
 23 going to get this hotel built. And we've got one  
 24 more extension. Everybody was hanging on, letting  
 25 me get this one more extension.

<p style="text-align: right;">Page 158</p> <p>1        This was a project that started out 2 of our office, out of the Office of the Comptroller. 3 So I was very familiar with it and had been familiar 4 with it for years. And I was very supportive of it. 5 I wanted it to be successful. I wanted Jim to be 6 successful.</p> <p>7        Q. Did you make the forced leave decision on 8 July 1?</p> <p>9        A. I made that forced leave decision on -- on 10 the 28th, on that Friday.</p> <p>11      Q. When did you decide that you were going to 12 be seeking termination?</p> <p>13      A. I never decided that I was going to be 14 seeking termination.</p> <p>15      Q. Can you look at what's marked Plaintiff's 16 Exhibit O?</p> <p>17      A. Yes, I have it.</p> <p>18                  (Whereupon Exhibit O was marked 19                  for identification.)</p> <p>20      Q. (By Mr. Schmitz) If you could turn to the 21 fifth page within that packet, it's dated July 2, 22 2019. And it's addressed to Mr. Richard Frank from 23 you.</p> <p>24      A. It's July 2?</p> <p>25      Q. July 2, 2019, yes. This would be the</p>	<p style="text-align: right;">Page 160</p> <p>1 titled, a pretermination hearing. It was not meant 2 to be a termination, otherwise it would have stated 3 such. I was aware that I had options to discipline 4 instead of forced leave. I chose forced leave 5 instead of discipline. I wanted to make sure that 6 the discipline that I chose was appropriate for the 7 employee.</p> <p>8        Q. Can you circle back to the second and 9 third pages of this exhibit?</p> <p>10      A. Yes.</p> <p>11      Q. You see there's two different letters to 12 Richard Frank both dated July 2?</p> <p>13      A. Yes.</p> <p>14      Q. Okay. Can you tell me why there was two 15 separate letters sent to him?</p> <p>16      A. Yes. The first one and the second one. 17 The first one I'm seeing is the one that had more 18 detail describing actions taken by Jim Garavaglia. 19 The second one does not describe those actions. I 20 was advised by counsel to be more clear, that Jim 21 did not -- would not know why he was being put on 22 forced leave.</p> <p>23      MS. HAMILTON: I'm going to object to -- 24 that those conversations are attorney-client 25 privilege.</p>
<p style="text-align: right;">Page 159</p> <p>1 fifth document in this packet.</p> <p>2        A. To Richard Frank from me?</p> <p>3        Q. Yes. Hold on. I might be counting wrong.</p> <p>4        A. Yeah. I'm on three pages. This is five 5 right here.</p> <p>6                  MR. NORWOOD: No. He --</p> <p>7                  THE WITNESS: He said five.</p> <p>8                  MR. NORWOOD: Are you talking about the 9 third page?</p> <p>10      Q. (By Mr. Schmitz) Hold on. Let me get it 11 right. Sorry. Yes, the letter to Jim -- we'll go 12 with the letter to Jim.</p> <p>13      A. That's the one on the fifth page.</p> <p>14      Q. Right. Addressed to him from you dated 15 July 2.</p> <p>16      A. Yes.</p> <p>17      Q. Okay. Can you just read the first 18 sentence of that paragraph?</p> <p>19      A. As of Monday, July 2, 2019, you are being 20 placed on an official forced leave pending a 21 pretermination hearing.</p> <p>22      Q. Okay. So you would agree that a 23 pretermination hearing was already presented as 24 early as July 2?</p> <p>25      A. That was the process. That's what it was</p>	<p style="text-align: right;">Page 161</p> <p>1        Do not get into what counsel told you. If 2 you want to say on the advice of counsel, fine. 3 But what counsel said is attorney-client 4 privilege.</p> <p>5        And I'm going to assert the 6 attorney-client privilege on behalf of the City 7 of St. Louis and direct the witness not to 8 answer any questions in that regard or offer 9 any testimony in that regard.</p> <p>10      MR. BLANKE: Is this a privilege that 11 belongs to Ms. Green?</p> <p>12      MS. HAMILTON: It belongs to the City of 13 St. Louis.</p> <p>14      MR. NORWOOD: I'll join in that objection.</p> <p>15      MR. BLANKE: As to her privilege?</p> <p>16      MR. NORWOOD: I'm joining in the City's 17 objection to --</p> <p>18      MR. BLANKE: I'm asking, what is the 19 objection? Is it an objection to whose 20 attorney-client privilege?</p> <p>21      MR. SCHMITZ: Are you objecting to my 22 question?</p> <p>23      MS. HAMILTON: Would you like to read back 24 what I said?</p> <p>25      MR. SCHMITZ: I would like for it to be</p>

<p style="text-align: right;">Page 162</p> <p>1 clear.</p> <p>2 MR. BLANKE: Wait. Ms. Hamilton, I know 3 you were super clear. You said it was the 4 City's objection.</p> <p>5 I'm asking Mr. Norwood, you said you 6 joined in the objection. I'm asking as to your 7 objection, is that an objection of 8 attorney-client privilege for Ms. Green?</p> <p>9 MR. NORWOOD: I agree with the City 10 counselor that any communication with counsel 11 would be privileged, and she should not be 12 required to answer those questions. And I'm 13 agreeing -- since I'm representing her 14 personally, I'm agreeing as her lawyer to 15 follow the admonition to not answer questions 16 regarding any discussions with counsel.</p> <p>17 MS. HAMILTON: Or offer any testimony in 18 that regard.</p> <p>19 MR. NORWOOD: Or inadvertently offering 20 testimony in that regard, right. It's the 21 City's privilege and only the City can waive 22 the privilege.</p> <p>23 MR. SCHMITZ: And that was my question.</p> <p>24 MR. BLANKE: I'm sorry.</p> <p>25 MR. SCHMITZ: No. My only question was,</p>	<p style="text-align: right;">Page 164</p> <p>1 attorney-client privilege on behalf of the City 2 of St. Louis and direct the witness not to 3 answer any questions in that regard or offer 4 any testimony in that regard.</p> <p>5 MR. BLANKE: Just for the record, I want 6 to say that I think it's a mystery to me how 7 the City attorney can direct a person that's 8 not her client to not answer questions. But 9 you're doing the same thing, but you're also 10 saying it's a City objection.</p> <p>11 MR. NORWOOD: It's an issue what is 12 attorney-client privilege, right?</p> <p>13 MR. BLANKE: Whose privilege?</p> <p>14 MR. NORWOOD: She is here in her personal 15 capacity. She is also taking actions in her 16 official capacity. So technically she has two 17 attorneys here to the extent that she's here 18 and to the extent that she's answering -- wait 19 a minute. To the extent she's answering 20 questions that relate to her official duties 21 that would be subject to a privilege that 22 belongs to the City, she has every right to 23 object and instruct her not to answer.</p> <p>24 And to the extent her instruction not to 25 answer isn't sufficient, my instruction would</p>
<p style="text-align: right;">Page 163</p> <p>1 was the objection to my question or the answer 2 that was given?</p> <p>3 MR. NORWOOD: For the record, it doesn't 4 matter because to the extent that the witness 5 might inadvertently talk about discussions with 6 counsel, I think the proper objection is to 7 object at that time beforehand and instruct the 8 witness not to answer any further.</p> <p>9 MR. SCHMITZ: I don't think it's not 10 relevant. I'm just trying to clarify for the 11 record what the objection was to in particular.</p> <p>12 MS. HAMILTON: Would you like her to read 13 it back?</p> <p>14 MR. SCHMITZ: No. I was asking you what 15 your objection was to. That's all.</p> <p>16 MS. HAMILTON: Do you want to read back my 17 objection, Madam Court Reporter.</p> <p>18 THE COURT REPORTER: I'm going to object 19 to -- that those conversations are 20 attorney-client privilege.</p> <p>21 Do not get into what counsel told you. If 22 you want to say on the advice of counsel, fine. 23 But what counsel said is attorney-client 24 privilege.</p> <p>25 And I'm going to assert the</p>	<p style="text-align: right;">Page 165</p> <p>1 be. So we both are instructing her not to 2 answer. But you can -- whichever one, you can 3 take hers or mine or both.</p> <p>4 MR. BLANKE: But the Court has sustained 5 your motion to dismiss any claim based on 6 official capacity. And the only claims that 7 remain against her at this point are in her 8 personal capacity.</p> <p>9 MS. HAMILTON: And there are claims 10 against the City of St. Louis.</p> <p>11 MR. NORWOOD: But there are claims against 12 the City of St. Louis. And all of the actions 13 we're talking about have nothing to do with 14 personal capacity.</p> <p>15 MR. BLANKE: Let's move on. I understand.</p> <p>16 Q. (By Mr. Schmitz) So I asked you to read 17 from Page 5. And if you turn to the next page, you 18 see there's also a second letter addressed to Jim 19 Garavaglia dated July 2 from you. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And those letters differ in some respect?</p> <p>22 A. One has more clarity in terms of actions 23 that were taken by Jim.</p> <p>24 Q. Do you know why those two -- there are two 25 different letters?</p>

<p style="text-align: right;">Page 166</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Subject to your counsel's prior 3 objection, can you -- will you answer as to why you 4 were --</p> <p>5 MR. NORWOOD: With the admonition that to 6 the extent that the answer requires her to 7 reveal discussions with counsel.</p> <p>8 MR. SCHMITZ: Hence why I said subject to 9 that objection. I don't know what the answer 10 is.</p> <p>11 MR. NORWOOD: I'm just trying to make sure 12 the witness understands that. She shouldn't 13 talk about specifics as to discussions with 14 counsel, is all.</p> <p>15 So subject to that, to the extent you can 16 answer, feel free to do so.</p> <p>17 A. On advice to give clarity.</p> <p>18 Q. (By Mr. Schmitz) All right. Do you know 19 which letter was sent?</p> <p>20 A. I had a record of that. But right now at 21 this point, I'm unclear.</p> <p>22 Q. Do you know what record that is if 23 you're --</p> <p>24 A. It would have been the postal record for 25 the receipt.</p>	<p style="text-align: right;">Page 168</p> <p>1 know who Ashley McClain is?</p> <p>2 A. With the Civil Service Commission.</p> <p>3 Q. Were you aware that a civil service 4 hearing had been scheduled as of July 11?</p> <p>5 A. Based on the appeal that was filed.</p> <p>6 Q. Well, did you receive notice, this same 7 notice -- and I'm going to ask you to just turn the 8 page to this Notice of Institution of Case and 9 Hearing. Did you receive a copy of that from the 10 Commission?</p> <p>11 A. Not personally, no.</p> <p>12 Q. Okay. But were you made aware of it, 13 then, at some point?</p> <p>14 A. Yeah.</p> <p>15 Q. So you were aware it was scheduled for 16 July 23?</p> <p>17 A. I don't recall if I was aware at the time.</p> <p>18 Q. All right. Related to his forced leave 19 and making your decision, after he was placed on 20 forced leave on July 2, what did you do to assist 21 you in making that determination? I can repeat the 22 question.</p> <p>23 A. Please do.</p> <p>24 Q. So relative to you making the decision as 25 what to do after he was placed on forced leave, Jim,</p>
<p style="text-align: right;">Page 167</p> <p>1 MS. HAMILTON: I don't mean to interrupt 2 here, but I did try to make it clear in the 3 City's production, I'm not sure if it was, 4 which one actually went.</p> <p>5 MR. SCHMITZ: I'm not disputing what was 6 sent. I'm merely asking her if she has a 7 recollection as to which one was sent.</p> <p>8 Q. (By Mr. Schmitz) Are you referring to 9 certified mail when you say you have a record?</p> <p>10 A. I believe there was delivery by certified 11 mail on an occasion, and then there may have been a 12 delivery by courier on an occasion.</p> <p>13 Q. And you believe that was done to your 14 knowledge and understanding, that was done in 15 addition to him being handed the forced leave 16 document by Judy Armstrong?</p> <p>17 A. I believe.</p> <p>18 Q. Okay.</p> <p>19 A. But I'm not sure.</p> <p>20 Q. Do you know if he was handed the same 21 letter by Ms. Armstrong that was mailed to him?</p> <p>22 A. I do not know.</p> <p>23 Q. All right. If you could skip forward a 24 few pages -- it looks like two pages. It's an 25 e-mail addressed to me by Ashley McClain. Do you</p>	<p style="text-align: right;">Page 169</p> <p>1 I mean, what actions or steps did you take to help 2 you in making that decision?</p> <p>3 A. One of the things, that I spoke with 4 counsel.</p> <p>5 Q. Okay. Did you do anything else? No need 6 to talk about what counsel said. We're going to not 7 talk about that.</p> <p>8 A. I probably spoke once again to either 9 Linda Thomas or the Director of Personnel. Those 10 would have been the steps.</p> <p>11 Q. Okay. If you skip forward a few more 12 pages, you'll see a memorandum with Nancy Kistler, 13 with the City counselor's office, Ms. Morton, your 14 secretary, dated July 12, 2019.</p> <p>15 A. Yes.</p> <p>16 Q. Are you familiar with this?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Who requested that she prepare 19 this?</p> <p>20 A. Counsel.</p> <p>21 Q. All right. All right. Can you 22 fast-forward, then, past those two documents to a 23 memorandum from you to Richard Frank dated July 15, 24 2019. Do you see that?</p> <p>25 A. Is it dated July 15?</p>

<p style="text-align: right;">Page 170</p> <p>1 Q. Yes. 2019.</p> <p>2 MR. NORWOOD: You're saying a memo?</p> <p>3 MR. SCHMITZ: Well, it doesn't use the word "memorandum," but a letter, memo.</p> <p>4 Q. (By Mr. Schmitz) Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Wherein you asked that he be placed on forced leave effective July 15, 2019?</p> <p>7 A. Yes.</p> <p>8 Q. Why did you request a forced leave on this date?</p> <p>9 MR. NORWOOD: Let me object. It assumes facts not in evidence.</p> <p>10 Subject to that, you can answer.</p> <p>11 Q. (By Mr. Schmitz) Well, all I'm asking is the document states: I am respectfully requesting you place Mr. James Garavaglia, a deputy comptroller of Finance &amp; Development, on official forced leave effective Monday, July 15.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And it's addressed to Richard Frank on July 15?</p> <p>15 A. Yes.</p> <p>16 Q. So were you requesting that he place him</p>	<p style="text-align: right;">Page 172</p> <p>1 have began a new forced leave from my understanding.</p> <p>2 Q. Were you asking for an extension?</p> <p>3 A. I was asking for forced leave.</p> <p>4 Q. Did you believe it had already expired at that time?</p> <p>5 A. What the letter indicates is that I was asking for forced leave.</p> <p>6 Q. Well, I may have misunderstood your prior response then. Did you ask for forced leave a second time because you believed the previous forced leave that had been granted had already expired?</p> <p>7 A. Well, I'm going to defer again to advice of counsel in the short period of time, July 2 to 14 July 15, then July 10, when I believe there was an appeal filed by your office during those short few days. Many things was happening. And the result of it is the second letter.</p> <p>8 Q. All right. If you could go forward to an e-mail on Wednesday, July 17, 2019. It's from Linda Thomas to Richard Frank. Have you ever seen this e-mail before?</p> <p>9 A. Yes.</p> <p>10 Q. Well, it's originally from Rick to Linda and then Linda responded, but.</p> <p>11 MR. NORWOOD: I mean, just for the record,</p>
<p style="text-align: right;">Page 171</p> <p>1 on forced leave on July 15?</p> <p>2 A. Yes.</p> <p>3 Q. So again, my question was, why were you asking that he be placed on forced leave on July 15, 2019?</p> <p>4 A. Because it had to do with an investigation.</p> <p>5 Q. Okay. Was he not already on forced leave at that time?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Your reasons that you provide in this letter, if you refer back to your request on July 2, 2019, it does not appear to be different in any other way other than the dates. So were you requesting forced leave for a different reason?</p> <p>8 A. I would have had advice of counsel in the letters. So I would not be as clear today as to the advice given regarding the letters.</p> <p>9 Q. All right. Notwithstanding advice of counsel and what that may or may not have been, is it your understanding you would need to request forced leave again for an employee that was already on forced leave?</p> <p>10 A. Yes. Forced leave for my understanding was limited to, I believe, 14 days. July 15 would</p>	<p style="text-align: right;">Page 173</p> <p>1 I think it's the other way around.</p> <p>2 MR. SCHMITZ: You're right. Strike that.</p> <p>3 Q. (By Mr. Schmitz) So it's from Linda Thomas addressed to Rick. And it says: I told the comptroller to withdraw her request for forced leave on J.G.</p> <p>4 Do you have any recollection of Linda Thomas telling you to withdraw your request for forced leave?</p> <p>5 A. As I stated before, I was in consultation with Linda Thomas and the Director of Personnel along with counsel during those periods of time seeking direction.</p> <p>6 Q. Right. So I don't want you to answer anything that involves counsel's advice or direction or the content of those conversations, but this is an e-mail where Linda Thomas is making a representation to Richard Frank about something she asked you.</p> <p>7 So I'm asking you in that limited capacity, do you recall her telling you to withdraw her -- your request, excuse me, for forced leave?</p> <p>8 A. I recall seeking direction and Linda giving me direction. The auditor -- state auditors were in the Office of the Comptroller performing an</p>

1 audit. And I recall speaking to Linda about that.  
 2 The auditors had called within days  
 3 of Jim being placed on forced leave. The state  
 4 auditor specifically told me that she had read the  
 5 paper and learned that Jim was on forced leave. And  
 6 that she recognized he was a high-level employee.  
 7 And specifically she asked, do I have anything to  
 8 worry about -- or do we have anything to worry  
 9 about? And at the time, I told her no, because I  
 10 didn't believe she did. That was within the 14  
 11 days.

12 After learning that there were  
 13 documents that were official City documents that  
 14 were contracts and they were signed by Jim  
 15 Garavaglia, within a few days later, I called that  
 16 auditor back. And I said, I know you're in the  
 17 office auditing and you are auditing contracts. We  
 18 have learned that there's a reason for you to be  
 19 concerned.

20 They asked me to send them the  
 21 documents. And I did so. I sent the auditors the  
 22 documents that had been signed by Jim Garavaglia.  
 23 And they told me that they would get back to me.  
 24 Asked what they would do. And they said they would  
 25 let me know.

1 So this would have been in a few  
 2 days. And then I discussed all of this with Linda  
 3 Thomas as to what to do now since this is coming to  
 4 the time we're going to have a hearing and all of  
 5 this. She let me know there's nothing wrong with  
 6 expending an investigation now that you heard from  
 7 the auditors, now that they're involved. She said  
 8 those things in this e-mail, giving me instructions  
 9 on what I needed to do.

10 Q. Did the auditor ever present you with a  
 11 report?

12 A. The auditors didn't get back to me in a  
 13 timely manner. And I did take it upon myself to  
 14 call to find out if, in fact, there was going to be  
 15 an audit performed. And I finally got an answer  
 16 from the auditors that they were not going to audit  
 17 the documents that I sent, because they had a  
 18 specific scope of work that they were interested in  
 19 completing, which was fiscal year 2018. And those  
 20 documents are outside of their scope of work. And  
 21 they said they would not be giving me any audit  
 22 report on that. And that answer came from them in,  
 23 I believe, August.

24 Q. Did they ever subsequently do an audit on  
 25 2019?

1 A. I never followed up. As the comptroller  
 2 of the City, it was my responsibility to follow up  
 3 if, in fact, I wanted them to take further steps to  
 4 specifically audit the records surrounding those  
 5 documents that were signed by Jim Garavaglia.

6 Q. Okay. So you didn't ask -- just so I'm  
 7 clear on your answer, you didn't ask and they did  
 8 not do it; is that correct?

9 A. That is correct.

10 Q. Thank you. If you could turn the page  
 11 from that, you see there's a letter to Mr. Frank  
 12 again dated July 18.

13 A. Yes.

14 Q. Okay. And again you're requesting he be  
 15 placed on forced leave?

16 A. Yes.

17 Q. Did you then withdraw your original  
 18 request for forced leave as recommended by Linda  
 19 Thomas?

20 A. I believe that is the letter dated July 18  
 21 to Richard Frank stating as such.

22 Q. Well, I see that you're requesting it.  
 23 Just so I'm clear, had you already withdrawn your  
 24 prior requests dated July 2, had you actually  
 25 withdrawn that request before you issued --

1 MR. NORWOOD: Let me object. You're  
 2 talking about July 18. And there are two  
 3 July 18 letters. It looks like she's looking  
 4 at one and you may be looking at the other. So  
 5 let's just make sure the record's clear as to  
 6 which July 18, 2019 letter we're talking about.

7 MR. SCHMITZ: Well, it looks like it's the  
 8 same letter, but the second page has  
 9 handwritten "approved" on it.

10 MR. NORWOOD: No, no.

11 MS. HAMILTON: There are three July 18,  
 12 2019 letters.

13 MR. NORWOOD: There's a withdrawal letter  
 14 dated July 18, 2019 that she's looking at now.

15 MR. SCHMITZ: I wasn't asking her about  
 16 that in particular yet. I was asking if she  
 17 recalls withdrawing it.

18 A. Yes.

19 Q. (By Mr. Schmitz) Okay. Now, back to that  
 20 July 18. So you had withdrawn it or you wrote that  
 21 letter requesting to withdraw it before you  
 22 requested he be placed on forced leave again?

23 A. Yes.

24 Q. Do you know how that second letter was  
 25 delivered to the one addressed to Jim notifying that

<p style="text-align: right;">Page 178</p> <p>1 he's being placed on forced leave as of July 18, 2 2019?</p> <p>3 A. No. At this time, I don't recall.</p> <p>4 Q. Okay. If you could turn the page to an 5 e-mail, it appears to have come from your -- I might 6 be wrong about this. But it appears to come from 7 your e-mail address, but has Ms. Morton's signature. 8 It says "on behalf." So I'm assuming she -- well, I 9 shouldn't assume. Did she use your e-mail address 10 to send that?</p> <p>11 A. Is this dated --</p> <p>12 Q. July 18.</p> <p>13 A. -- July 18, 3:24?</p> <p>14 Q. Yeah. It just says 2:25, not 3:24. It's 15 an e-mail --</p> <p>16 MR. NORWOOD: I think -- yeah, I think 17 we're looking at the same one. He's talking 18 about --</p> <p>19 A. 3:24. This is 2:52, not 25.</p> <p>20 Q. (By Mr. Schmitz) So it's titled Letter to 21 James Garavaglia.</p> <p>22 A. I don't have that. I got revised request 23 letter.</p> <p>24 Q. It should be right after the July 18 25 letter that has "approved" handwritten on it.</p>	<p style="text-align: right;">Page 180</p> <p>1 Ms. Morton on behalf of you, using your e-mail 2 address, wrote: Dear Mr. Frank, my apologies. 3 Please see attached revised letter.</p> <p>4 Do you know why approximately 25 5 minutes after Mr. Frank was informed that a letter 6 had been hand delivered, she then sent a revised 7 letter?</p> <p>8 A. From what I'm reading here, it states from 9 Richard Frank that he wrote: Thank you.</p> <p>10 And he wrote: Could you also add 11 words "serious" and/or "fiscal" before improprieties 12 to strengthen and clarify.</p> <p>13 Q. Right. I believe, unless I'm wrong, 14 that's in response to what Ms. Morton wrote prior to 15 that. Because what she wrote is time stamped 2:50.</p> <p>16 A. And two minutes later, he writes --</p> <p>17 Q. And I'm going to get to that. My question 18 was not -- I don't want to confuse the issue. My 19 question was, do you know why Chana sent a revised 20 letter 25 minutes later before he responded two 21 minutes later? Because it appears there was a 22 letter delivered that was sent and then there's no 23 subsequent e-mail response that was provided to us 24 from Richard Frank, but yet Chana, 25 minutes later, 25 sent a revised letter. Do you know why there was a</p>
<p style="text-align: right;">Page 179</p> <p>1 MR. NORWOOD: I see. There are two 2 July 18 e-mails.</p> <p>3 THE WITNESS: Oh, I have it now.</p> <p>4 MR. NORWOOD: So we just want to make 5 sure. This e-mail and then there's the e-mail 6 a couple pages down. So which one should she 7 be looking at?</p> <p>8 MR. SCHMITZ: Not the one that's 3:24 or 9 that's responding to 2:52.</p> <p>10 MR. NORWOOD: He's talking about this one.</p> <p>11 Q. (By Mr. Schmitz) It just says: Dear 12 Mr. Frank, please see attached copy of the letter 13 hand delivered today.</p> <p>14 A. Yes, I see that.</p> <p>15 Q. I'm just asking, does that refresh any 16 memory, that use of the term "hand delivered," what 17 does that mean, if you know?</p> <p>18 A. I would believe it was couriered today.</p> <p>19 Q. Okay. Now, I'm going to fast-forward to 20 the e-mail that you thought I was talking about.</p> <p>21 The one that's the same date, but 3:24. And go down 22 the page at 2:52 -- or 2:50. Excuse me.</p> <p>23 MR. BLANKE: Is this a time, 2:50 p.m.?</p> <p>24 MR. SCHMITZ: Yes.</p> <p>25 Q. (By Mr. Schmitz) On July 18, it looks like</p>	<p style="text-align: right;">Page 181</p> <p>1 revised letter sent?</p> <p>2 A. I do not.</p> <p>3 Q. Okay. Do you recall an e-mail or a phone 4 conversation with Rick or Linda requesting a revised 5 letter?</p> <p>6 A. I do not.</p> <p>7 Q. Okay. Do you know if that revised 8 letter -- if you go to the page before that, do you 9 know if the page before that is the letter that -- 10 the revised letter that Ms. Morton sent 25 minutes 11 later?</p> <p>12 It's just one page before the e-mail 13 we were just talking about, or the e-mail chain. 14 It's also dated July 18.</p> <p>15 A. From what I'm looking at, I can't be sure.</p> <p>16 Q. All right. It doesn't contain the word 17 "serious" or "fiscal;" is that correct, from your 18 reading --</p> <p>19 A. Correct.</p> <p>20 Q. -- before impropriety?</p> <p>21 Okay. Then if you go back to the 22 e-mail chain on the next page, Please see the 23 attached updated request from Chana -- is it Chana 24 or Shauna? I'm sorry.</p> <p>25 A. Chana.</p>

<p style="text-align: right;">Page 182</p> <p>1 Q. Chana. My apologies. From Chana Morton, 2 with an updated request. We haven't received a copy 3 of that updated request. So I don't have that to 4 show you, but.</p> <p>5 MR. NORWOOD: Well, what did you say now? 6 I'm sorry.</p> <p>7 MR. SCHMITZ: We don't have a copy of the 8 updated request if there is one.</p> <p>9 MR. NORWOOD: Wait a minute.</p> <p>10 MR. SCHMITZ: I don't know that there even 11 is one.</p> <p>12 MR. NORWOOD: That's what I'm trying to 13 figure out. Because are we talking about the 14 letter to your client, or are we talking about 15 the letter to Frank? That's what I'm trying to 16 make sure we're on the same page. That may be 17 where the confusion lies.</p> <p>18 MR. SCHMITZ: I don't know. All it says 19 is attached updated request. The witness may 20 be the only one that can answer that question. 21 And I don't know that she can.</p> <p>22 MR. NORWOOD: But if you look at the 23 e-mail that follows that, I think that adds 24 some clarity.</p> <p>25 MR. SCHMITZ: Right. She wrote attached</p>	<p style="text-align: right;">Page 184</p> <p>1 Frank, July 18, 2019. That's why I'm saying, 2 there's a letter to your client and a letter to 3 Frank. So I think it's unfair to ask this 4 witness a question about a communication that 5 was transmitted by her assistant to the 6 Director of Personnel who it looks like had to 7 weigh in on this thing.</p> <p>8 MR. SCHMITZ: It's possible she doesn't 9 know. So let's start there.</p> <p>10 MR. NORWOOD: Okay. Let's do that.</p> <p>11 Q. (By Mr. Schmitz) I mean, do you know when 12 Richard Frank is responding, can you add the word 13 "serious" or "fiscal," do you know if he's referring 14 to the request for forced leave or do you know if 15 he's referring to the letter --</p> <p>16 A. It appears --</p> <p>17 Q. -- the notice of forced leave?</p> <p>18 A. It appears that he might be referring to 19 the letter, but I don't know as I sit here and read 20 the letter. I see the word "improprieties." Before 21 that word, it says "some." I could look at the 22 e-mail that Richard Frank wrote and make an 23 assumption that he was referencing the letter.</p> <p>24 Q. I'm not asking you to do that. I'm not 25 asking you to speculate. I'm asking if you have any</p>
<p style="text-align: right;">Page 183</p> <p>1 updated request. I don't know if that means 2 request. That's part of what my questions are 3 going to be. For forced leave or if that means 4 a revised letter that included the word 5 "serious" or "fiscal." So that's my question.</p> <p>6 Q. (By Mr. Schmitz) Do you know, was there 7 ever another letter prepared that added the word 8 "serious" and/or "fiscal" before improprieties?</p> <p>9 MR. NORWOOD: Objection. I don't know. 10 When you're saying another letter, to whom; to 11 Frank or to your client? That's what I'm 12 saying we need to get clear on what we're 13 talking about.</p> <p>14 MR. SCHMITZ: I don't think I can ask that 15 question the way that you're asking it without 16 the witness first answering. Because she 17 doesn't know if the prior letter, this one -- 18 she doesn't know if that's the letter that's 19 being referenced here. If it is, then 20 obviously it would be a letter to Jim. If not, 21 then I'm asking if she knows that too.</p> <p>22 THE WITNESS: He's asking --</p> <p>23 MR. SCHMITZ: Maybe I can break this down.</p> <p>24 MR. NORWOOD: Let me make it easier for 25 you. That language appears in a letter to</p>	<p style="text-align: right;">Page 185</p> <p>1 actual knowledge.</p> <p>2 A. My knowledge at this moment in time, I do 3 not recall.</p> <p>4 Q. All right. Last question related to this 5 e-mail where Richard Frank writes: Thank you, 6 Honorable Comptroller Green. Please be advised that 7 effective immediately, I'm authorizing 8 Mr. Garavaglia to be placed --</p> <p>9 THE COURT REPORTER: Slower, please.</p> <p>10 Q. (By Mr. Schmitz) I am authorizing 11 Mr. Garavaglia to be placed on forced leave pending 12 your investigation.</p> <p>13 So was it at this point that he 14 authorized Jim being placed on forced leave for a 15 second time?</p> <p>16 A. I see the second letter. You said you 17 didn't have it. It's right here. It says serious 18 fiscal improprieties, July 18th to Richard Frank. 19 So those words are added to the letter that you said 20 you didn't have.</p> <p>21 Q. I didn't say I didn't have that. I said I 22 didn't have a letter to Jim with those words in it, 23 so.</p> <p>24 A. That may not have been what Richard Frank 25 asked for.</p>

<p style="text-align: right;">Page 186</p> <p>1 Q. Exactly. That was my question.      2 A. But he has it. Richard Frank has this      3 letter of what he asked for. Serious fiscal      4 impropriety, that's what's in the e-mail from      5 Richard Frank.</p> <p>6 Q. Again I wasn't asking you to speculate.      7 A. But I'm not speculating now. I'm reading      8 here. I have two letters from Jim Garavaglia and      9 one to Richard Frank. The one to Richard Frank is      10 specifically here. And instead of it saying some      11 impropriety, it says some serious fiscal      12 improprieties, which is obvious that was written      13 after Mr. Richard Frank asked for Chana to write it.      14 And in both cases, I'm signing it. And these are my      15 original signatures.</p> <p>16 Q. All right. So are you saying that having      17 read that, it refreshes your recollection that that      18 was what Richard Frank was referring to is the      19 letter to him requesting --</p> <p>20 A. What I'm saying, it looks clear to me as I      21 read it today. But if you're asking me to recall      22 three years ago specifically, I cannot do that. But      23 I can look here today in front of my eyes and read      24 where Richard Frank is asking for two words to be      25 added to a letter that would be sent to him. And I</p>	<p style="text-align: right;">Page 188</p> <p>1 59 minutes before Rick Frank sent that out. Was the      2 letter then hand delivered to Jim an hour before it      3 was approved by Richard Frank?</p> <p>4 A. E-mail says: Mr. Frank, please see the      5 attached copy of the letter delivered today to      6 Mr. Garavaglia.</p> <p>7 And that's the e-mail you're asking      8 me to answer. And it appears that this e-mail is      9 stating that a letter was delivered to      10 Mr. Garavaglia. So I would believe. Of course, I'm      11 not recalling, because I can't recall and was not      12 privy to the delivery personally. In other words, I      13 did not deliver it personally. But I can by this      14 e-mail have an understanding today. But that's not      15 your question, though.</p> <p>16 Q. I think that's a fair answer.</p> <p>17 And what was delivered, would you      18 agree, is the notice to Jim that he was being placed      19 on forced leave for a second time?</p> <p>20 A. I would have the understanding it would be      21 the letter that was addressed to Jim Garavaglia.</p> <p>22 Q. Right. But that provides notice he's      23 being placed on forced leave?</p> <p>24 A. And addressed to him as well.</p> <p>25 Q. Okay. Other than counsel -- I want to</p>
<p style="text-align: right;">Page 187</p> <p>1 can see clearly that that letter was prepared by my      2 assistant and signed by me and sent to Richard      3 Frank.</p> <p>4 Q. Going back to the top portion of this      5 e-mail. Okay? I read it into the record already.      6 So I'm going to address it again briefly in that was      7 this the point in which the Director of Personnel      8 authorized Jim's placement on forced leave for a      9 second time?</p> <p>10 A. Is it stated in the e-mail? Is that your      11 question? Is it stated?</p> <p>12 Q. I'm asking you if that's when that      13 happened.</p> <p>14 A. You're asking me about what somebody else      15 did? I want to be clear to understand your question      16 so I can answer it properly.</p> <p>17 Q. If you don't know, that's fine. My      18 question is, is that your understanding?</p> <p>19 A. My understanding is that we received the      20 e-mail from Richard Frank, that he did authorize the      21 forced leave. So we did receive the authorization,      22 is what my understanding is.</p> <p>23 Q. All right. If you go back to the      24 letter -- sorry -- the e-mail that I addressed      25 earlier, again that is the one at 2:25 p.m. So</p>	<p style="text-align: right;">Page 189</p> <p>1 make clear, I don't want you to answer that portion      2 of it -- did you have a discussion with anyone else      3 besides Linda Thomas and/or Richard Frank related to      4 this process?</p> <p>5 A. No.</p> <p>6 Q. No. All right. I want to go back briefly      7 and then we can move on to -- I need to find it. So      8 just be patient with me, please -- an e-mail on      9 Wednesday, July 17. We've already discussed it      10 briefly.</p> <p>11 MS. HAMILTON: Where are you? I'm sorry.</p> <p>12 MR. SCHMITZ: The e-mail that we discussed      13 earlier from Linda Thomas to Rick Frank.</p> <p>14 MS. HAMILTON: Okay.</p> <p>15 MR. SCHMITZ: Wednesday, July 17, 2019 at      16 2:35 p.m.</p> <p>17 Q. (By Mr. Schmitz) I think these should have      18 had Bates stamps on them, but it's looking like they      19 got cut off. So I apologize for that, because that      20 would make it easier.</p> <p>21 MS. HAMILTON: Well, let's make sure      22 everybody's there. It's right after the      23 certified mail slip.</p> <p>24 MR. SCHMITZ: Yeah. It looks like a      25 photocopy of a green card, certified mail green</p>

<p style="text-align: right;">Page 190</p> <p>1 card. It's the page directly after that.</p> <p>2 MR. NORWOOD: Okay. I'm there. Are you 3 there? Everybody's there.</p> <p>4 Q. (By Mr. Schmitz) So my question to you 5 simply is, factually, do you have knowledge about 6 the last sentence which states to Rick: Wanted to 7 get this to you while my mind is still fresh in what 8 I said, so people don't misquote me. And you know 9 who I mean.</p> <p>10 Do you know personally who she's 11 referring to?</p> <p>12 A. No.</p> <p>13 Q. No. Okay. Was that discussed at any 14 point with either Linda or Rick?</p> <p>15 A. No.</p> <p>16 Q. Okay. All right. I'm going to go forward 17 again. I'm going to jump to August 12, 2019. 18 First, there's an e-mail that says James Garavaglia, 19 a 30-day extension. And then the next page after 20 that has a letter dated August 12, 2019 from you 21 addressed to Richard Frank.</p> <p>22 Do you see what I'm talking about?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. The attached -- the next page of 25 that letter is the letter that was attached to that</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. I just wanted to make sure that was still 2 the case after your attorney asked that question, 3 so.</p> <p>4 So you were asking now for a 30-day 5 extension?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Why did you ask this at this 8 time?</p> <p>9 A. I asked for this extension and additional 10 time, because I had not heard from the auditor.</p> <p>11 Q. All right. And why did you not seek or 12 issue -- Strike that.</p> <p>13 Why did you not issue a notice of 14 pretermination at this time?</p> <p>15 A. I asked for this extension, because I had 16 not heard from the auditor. And I had preference -- 17 or preferred that I hear a response from the 18 auditor.</p> <p>19 Q. Did you believe at this point in time that 20 you had a sufficient basis to request termination?</p> <p>21 A. Well, that wasn't my concern. My concern 22 was to have a complete picture of the situation that 23 we had and have a complete picture of my problem. 24 And I thought that with the auditor's input, I would 25 have more clarity and I would have more information.</p>
<p style="text-align: right;">Page 191</p> <p>1 e-mail on August 12?</p> <p>2 A. Yes.</p> <p>3 Q. All right. And --</p> <p>4 MR. NORWOOD: Just for the record, at 5 least this one has a Bates stamp, I think we're 6 talking about Garavaglia 344. Is that what 7 we're talking about?</p> <p>8 MR. SCHMITZ: Yeah, 344. The page before, 9 the e-mail does not.</p> <p>10 MR. BLANKE: I think they all had Bates 11 stamped, but they got cut off.</p> <p>12 MR. SCHMITZ: The ones that had the City 13 ones were probably a little bit lower and got 14 cut off in the copying.</p> <p>15 MS. HAMILTON: It's hard to be sure about 16 what's here, the way that these are labeled.</p> <p>17 MR. SCHMITZ: That's why I think we're 18 trying to be pretty clear for the record. This 19 is marked Garavaglia 344.</p> <p>20 MS. HAMILTON: I don't think it's clear.</p> <p>21 Q. (By Mr. Schmitz) Do you see where I'm 22 talking about, the letter?</p> <p>23 A. Yes. I said yes.</p> <p>24 Q. Okay.</p> <p>25 A. Oh, no. I said yes.</p>	<p style="text-align: right;">Page 193</p> <p>1 So I wanted to have the auditor's input. And so I 2 did discuss this with Linda Thomas and Richard 3 Frank. And then this extension was requested. And 4 it was later rejected. But it was requested because 5 I wanted the information. And I had not heard back 6 from the state auditors.</p> <p>7 Q. Had you made your decision as to whether 8 or not you were going to seek termination?</p> <p>9 A. No. I had not made a decision.</p> <p>10 Q. All right. I'm going to fast-forward 11 to -- let me find it. It's near the end. It's a 12 letter dated August 28, 2019 from you to Richard 13 Frank.</p> <p>14 MR. NORWOOD: Towards the back. A little 15 bit further.</p> <p>16 A. To Mr. Garavaglia?</p> <p>17 Q. (By Mr. Schmitz) No, no. This is to you 18 from Director Frank.</p> <p>19 A. Director Frank? One page over. No. The 20 other way.</p> <p>21 Q. Okay. Do you have it?</p> <p>22 A. Yes. I have the letter.</p> <p>23 Q. Do you know or can you tell me why you 24 wrote this letter? Why did you withdraw your 25 request for forced leave on August 28, 2019?</p>